[ORAL ARGUMENT SCHEDULED FOR DECEMBER 9, 2019]

No. 19-5237

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Senator RICHARD BLUMENTHAL, et al.,

Plaintiffs-Appellees,

v.

DONALD J. TRUMP, in his official capacity as President of the United States,

Defendant-Appellant.

On Appeal from the United States District Court for the District of Columbia

BRIEF FOR THE APPELLEES

Elizabeth B. Wydra
Brianne J. Gorod
Brian R. Frazelle
CONSTITUTIONAL ACCOUNTABILITY CENTER
1200 18th Street NW, Suite 501
Washington, D.C. 20036
(202) 296-6889
brianne@theusconstitution.org

Counsel for Appellees

CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES

A. Parties and Amici

All parties, intervenors, and *amici* appearing before the district court and in this Court are listed in the Brief for the Appellant, except for Professors Clark D. Cunningham and Jesse Egbert, and except for any other *amici* who have not yet entered an appearance in this case.

B. Rulings Under Review

Reference to the rulings under review appears in the Brief for the Appellant.

C. Related Cases

This case has previously been before this Court on a petition for a writ of mandamus. *See In re Donald J. Trump*, No. 19-5196 (D.C. Cir. July 19, 2019).

Dated: October 22, 2019

/s/ Brianne J. Gorod
Brianne J. Gorod

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page(s)

Cases

TABLE OF AUTHORITIES – cont'd

Page(s)

TABLE OF AUTHORITIES – cont'd

Page(s)

TABLE OF AUTHORITIES – cont'd

Page(s)

TABLE OF AUTHORITIES – cont'd

Page(s)

TABLE OF AUTHORITIES – cont'd

Page(s)

Constitutional Provisions

Statutes and Legislative Materials

TABLE OF AUTHORITIES – cont'd

Page(s)

Executive Branch Materials

TABLE OF AUTHORITIES – cont'd

Page(s)

Books, Articles, and Other Authorities

TABLE OF AUTHORITIES – cont'd

Page(s)

TABLE OF AUTHORITIES – cont'd

Page(s)

INTRODUCTION

"Men of little character, acquiring great power," Alexander Hamilton warned, "become easily the tools of intermeddling neighbors." 1 *The Records of the Federal Convention of 1787*, at 289 (Max Farrand ed., 1911) ("*Records*"). Recognizing that danger, the Framers fortified our national charter with safeguards against "foreign influence and corruption." *Id.* Chief among them is the Foreign Emoluments Clause, which requires "the Consent of the Congress" before federal officials accept "any present, Emolument, Office, or Title, of any kind whatever," from any foreign state. U.S. Const. art. I, § 9, cl. 8. Perceiving that foreign rewards "opened an avenue to foreign influence," 8 Annals of Cong. 1587 (1798) (Joseph Gales ed., 1834) (William Claiborne), the Framers demanded that "every present ... be laid before Congress," *id.* at 1585 (Harrison Gray Otis), and vested members of Congress with "the exclusive authority to permit the acceptance of presents from foreign governments," Letter from James Madison to David Humphreys (Jan. 5, 1803).

The Foreign Emoluments Clause's "sweeping and unqualified" language, 18 Op. O.L.C. 13, 17 (1994), has long been understood to require consent for even "trifling presents," 8 Annals of Cong. 1587 (James Bayard), encompassing rewards as diverse as jewelry, household luxuries, ornamental novelties, medals, tokens of thankfulness, symbolic military decorations, and compensation for services. *See*,

e.g., H.R. Rep. No. 21-170 (1830); 4 Stat. 792 (Feb. 13, 1835); 5 Stat. 730 (Mar. 1, 1845); 10 Stat. 830 (June 29, 1854); 11 Stat. 152 (Aug. 30, 1856); 20 Stat. 587 (Dec. 15, 1877); 21 Stat. 603, 604 (Jan. 31, 1881); 29 Stat. 759 (Apr. 2, 1896); S. Rep. No. 61-373, at 2-20 (1910); 40 Stat. 845, 872 (July 9, 1918); 48 Stat. 1267 (June 27, 1934); 56 Stat. 662 (July 20, 1942); 65 Stat. A148 (Oct. 30, 1951); 72 Stat. A159 (Aug. 27, 1958); 80 Stat. 1634 (July 4, 1966).

While the Clause is severe, its language is clear: "The decision whether to permit exceptions that qualify the Clause's absolute prohibition or that temper any harshness it may cause is textually committed to *Congress* ...." 17 Op. O.L.C. 114, 121 (1993). Since the eighteenth century, presidents and other officials have consistently obeyed that rule. *See* J.A. 159-66.

Not President Trump. By maintaining ownership of his companies while allowing them to conduct business with foreign governments, the President is accepting payments and other financial benefits from foreign states without the consent of Congress—disregarding the Constitution's structural safeguard "against every kind of influence by foreign governments upon officers of the United States." 10 Op. O.L.C. 96, 98 (1986) (quoting 24 Op. Att'y Gen. 116, 117 (1902)).

The results are predictable. Foreign officials flock to the President's hotels and resorts, paying up to hundreds of thousands of dollars for celebrations and blocks of rooms. J.A. 173-76. Ambassadors explain that hosting events at Trump

properties is "a statement that we have a good relationship with this president."[1] Prime ministers travel in motorcades from the President's Washington, D.C., hotel straight to the White House to meet with him.[2]

And that is just the start. Foreign governments are paying President Trump untold amounts for rent and fees at his commercial and residential towers,[3] many having signed leases soon after he took office.[4] Abroad, foreign states have granted the President lucrative intellectual property rights, J.A. 170-72, and have "donated public land, approved permits and eased environmental regulations for Trump-branded developments."[5] Increasingly brazen, President Trump just last week announced that he was awarding the next G7 summit to his resort in Doral, Florida, only to reverse course after a public outcry—in the aftermath, disparaging "you people with this phony Emoluments Clause."[6] Worst of all, because the

---

[1] David A. Fahrenthold & Jonathan O'Connell, *At President Trump's Hotel in New York, Revenue Went up This Spring—Thanks to a Visit from Big-Spending Saudis*, Wash. Post (Aug. 3, 2018).

[2] Jonathan O'Connell, *From Trump Hotel Lobby to White House, Malaysian Prime Minister Gets VIP Treatment*, Wash. Post (Sept. 12, 2017).

[3] J.A. 176-77; Dan Alexander & Matt Drange, *Trump's Biggest Potential Conflict of Interest Is Hiding in Plain Sight*, Forbes (Feb. 13, 2018).

[4] Julia Harte, *Foreign Government Leases at Trump World Tower Stir More Emoluments Concerns*, Reuters (May 2, 2019).

[5] Anita Kumar, *Foreign Governments Are Finding Ways To Do Favors for Trump's Business*, McClatchy (Jan. 2, 2018).

[6] *See* Kyle Griffin (@kylegriffin1), Twitter (Oct 21, 2019, 1:55 PM), https://twitter.com/kylegriffin1/status/1186340167193366529.

President is not obtaining congressional consent before accepting benefits from foreign governments, the full range of those benefits and the governments providing them remain unknown.

Under the Constitution, each of these transactions requires the prior consent of Congress. By refusing to seek that consent, President Trump is completely denying members of Congress one of their institutional prerogatives: their right to vote on which, if any, benefits he may accept from foreign states.

While it is true that members of Congress have standing to sue "only in rare circumstances," Appellant's Br. 25, the constitutional violations that President Trump has chosen to commit place this case squarely within that narrow window. Since the Supreme Court first recognized standing for legislators in *Coleman v. Miller*, 307 U.S. 433 (1939), both the Supreme Court and this Court have been careful not to foreclose all standing for individual members of Congress. Rather, they have preserved those members' ability to seek judicial relief in at least one situation—when the executive has completely denied them the effectiveness of their votes and no legislative remedy is "adequate." *Raines v. Byrd*, 521 U.S. 811, 829 (1997). As the district court recognized, this is that rare case.

The district court's orders should therefore be affirmed, so that this case may advance to summary judgment, preceded by, at most, *see* J.A. 126-27, "limited

discovery focused on [President Trump's] businesses," *id*. at 125-26.[7] Each day that passes, the nation's highest officeholder is making critical foreign policy decisions under a cloud of potentially divided loyalty caused by his enrichment from foreign states. That is precisely what the Framers adopted the Foreign Emoluments Clause to prevent.

SUMMARY OF ARGUMENT

I. Plaintiffs have standing to bring this suit. When legislators sue over "injury to their institutional power as legislators," rather than over the loss of a "private right" enjoyed in their personal capacities, they are asserting an "institutional injury." *Raines*, 521 U.S. at 820-21 & n.4. The Supreme Court has identified one type of institutional injury that legislators may vindicate in court: the right "to have their votes given effect." *Coleman*, 307 U.S. at 438. Legislators whose votes "have been completely nullified" by unlawful action have a cognizable interest "'in maintaining the effectiveness of their votes.'" *Raines*, 521 U.S. at 823 (quoting *Coleman*, 307 U.S. at 438).

Vote "nullification," this Court has explained, means "treating a vote that did not pass as if it had, or vice versa," *Campbell v. Clinton*, 203 F.3d 19, 22 (D.C. Cir. 2000), in the "unusual situation" where there is no "legislative remedy," *id*. at

[7] *See also* Local Rule 16.3 Report at 6-7 (D.D.C. May 28, 2019) (Dkt. No. 75) (disclaiming intent to seek discovery from the executive branch).

22-23. Vote nullification occurs not only when a past vote is disregarded but also when the right to cast a specific vote is denied.

These principles apply to members of Congress. While federal cases "raise separation-of-powers concerns," *Ariz. State Legislature v. Ariz. Indep. Redistricting Comm'n*, 135 S. Ct. 2652, 2665 n.12 (2015), this Court has developed a strict limiting principle to ameliorate those concerns: suits by federal legislators may proceed only if Congress is unable to provide the relief the plaintiffs seek. *Chenoweth v. Clinton*, 181 F.3d 112, 114-15, 116 (D.C. Cir. 1999); *Campbell*, 203 F.3d at 22-23.

Under these principles, Plaintiffs have standing. President Trump is completely denying them a right to which the Constitution entitles them: the right to vote on whether to give or withhold their consent to his acceptance of specific foreign emoluments before he accepts them. By accepting numerous financial rewards from foreign states without that consent, the President is treating votes that did not pass as if they had, *Campbell*, 203 F.3d at 22, in a situation where Congress lacks "ample legislative power" to stop him, *id.* at 23.

That uncommon situation arises here because of the unique nature of the Foreign Emoluments Clause. No other constitutional provision combines the two unusual features it shares.

First, the Clause imposes a procedural requirement (obtain "the Consent of

the Congress") that federal officials must satisfy before they take a specific action (accept "any" emolument from "any ... foreign State"). U.S. Const. art. I, § 9, cl. 8. This requirement of a successful prior vote, combined with the right of each Senator and Representative to participate in that vote, means that every time the President accepts an emolument without first obtaining congressional consent, Plaintiffs are deprived of their right to vote on whether to consent to its acceptance.

Second, the Foreign Emoluments Clause regulates the *private* conduct of federal officials. Because President Trump is violating the Clause through his private businesses, without the need for government funds or personnel, Congress cannot use its power of the purse—normally the "ultimate weapon of enforcement available to the Congress"—to stop him. *United States v. Richardson*, 418 U.S. 166, 178 n.11 (1974). Without that tool or any other effective means of forcing President Trump to conform his personal conduct to the Clause's requirements, Plaintiffs have no adequate legislative remedy for the President's denial of their voting rights.

II. Plaintiffs have a cause of action to seek injunctive relief preventing President Trump from violating the Clause. An injunction barring unconstitutional conduct by public officials is a traditional equitable remedy, available to an injured plaintiff unless legislation has affirmatively displaced it. Moreover, the "zone of interests" test does not govern constitutional claims, but it would easily be satisfied

here if it did. And nothing prevents this Court from ordering President Trump to comply with a ministerial duty—refraining from accepting foreign emoluments—that he shares with every other federal officeholder, a duty wholly separate from the unique constitutional responsibilities assigned to the chief executive.

III. Plaintiffs have stated a claim against President Trump for violating the Foreign Emoluments Clause. The President admits that the Clause covers "compensation for services performed for a foreign government." 10 Op. O.L.C. at 96 n.2. His effort to narrow the *type* of services covered—in order to exclude the services provided by his companies—rests on an outlandish reading of the Clause, divorced from its language, the Framers' purpose in adopting it, and the manner in which it has been construed ever since. Text, purpose, and historical practice all refute the notion that the Clause prohibits only bribery and what the President calls an "employment-type relationship" with a foreign state.

STATUTES AND CONSTITUTIONAL PROVISIONS

The Foreign Emoluments Clause provides: "No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State." U.S. Const. art. I, § 9, cl. 8.

Additional pertinent authorities appear in an addendum to this brief.

ARGUMENT

I. The Plaintiffs Have Standing To Maintain the Effectiveness of Their Votes Under the Foreign Emoluments Clause

A. The Foreign Emoluments Clause

Recognizing that foreign states "will intermeddle in our affairs, and spare no expence to influence them," 2 *Records* at 268, the Framers strove to ward off corruption and "foreign intrusions," 1 *id.* at 530. Their response to the threat of "dependency, cabals, patronage, unwarranted influence, and bribery" was structural—a reliance on "procedural devices and organizational arrangements," James D. Savage, *Corruption and Virtue at the Constitutional Convention*, 56 J. Pol. 174, 181 (1994). Because the vast power conferred on the executive would make him a prime target for foreign overtures, *see* 1 *Records* at 138, 289, the Framers required Senate consent for treaties, *see* 3 *id.* at 250-52. They also required consent for presidential appointments, to provide "security" against "any incautious or corrupt nomination by the Executive." 2 *id.* at 43. And acknowledging "the necessity" of ensuring that all federal officials remain "independent of external influence," the Framers required such officials to obtain "the consent of the Legislature" before accepting any benefits from foreign states. 2 *id.* at 389.

The Framers' decision to give Congress an ongoing procedural role in vetting foreign emoluments—an exclusive authority exercised without the

President—was a deliberate one. Unlike the Foreign Emoluments Clause, some constitutional prohibitions give Congress no special role to play, *e.g.*, U.S. Const. art. II, § 1, cl. 7 (Domestic Emoluments Clause), while others require only that certain acts be authorized "by Law," *e.g.*, *id.* art. I, § 9, cl. 7 (Appropriations Clause). Equally deliberate was the choice to require a prior act of affirmative consent. The Framers knew how to assign legal effect to an *absence* of legislative action. *See id.* art. I, § 7, cl. 2 (bills presented to the President become law if not returned within ten days); 2 *Records* at 80, 83 (rejecting proposal that would allow appointments to take effect unless the Senate voted to *reject* the nominee).

Eschewing those models, the Framers placed a formidable burden on any official wishing to accept a foreign reward: convince majorities in both Houses of Congress to give their consent. The clarity of that rule has long been recognized. *See* 4 John Bassett Moore, *A Digest of International Law* 582 (1906) (quoting 1834 message from the Secretary of State reminding diplomats not to accept foreign presents "unless the consent of Congress shall have been previously obtained").

Compliance, however, is simple: an official writes to Congress describing the benefit and seeking Congress's direction. *See*, *e.g.*, H. Journal, 5th Cong., 2d Sess. 275 (1798) (letter from ambassador requesting decision on "whether he shall accept or decline the customary presents given by [foreign] Courts, ... which he has declined receiving, without first having obtained the consent of the Government of

the United States"); S. Journal, 26th Cong., 1st Sess. 385 (1840) (letter from President Van Buren describing gifts offered to him and "deem[ing] it my duty to lay the proposition before Congress"); H. Journal, 34th Cong., 1st Sess. 686-87 (1856) (letter from President Pierce requesting consent for naval officers to accept gifts); S. Journal, 37th Cong., 2d Sess. 243 (1862) (letter from President Lincoln reporting gifts offered to him and "submit[ting] for ... consideration the question as to the[ir] proper place of deposit"); *President Benjamin Harrison* (Oct. 14, 2012), https://www.benjaminharrison.org/ (letter from President Harrison requesting consent to accept two medals, "[i]f it is appropriate that I should have them"); H.R. Rep. No. 65-695, at 1 (1918) (letter from President Wilson requesting consent for embassy officials to accept gifts); 105 Cong. Rec. 6879-80 (daily ed. Apr. 28, 1959) (letter from Defense Secretary requesting consent for military officers to accept foreign decorations).

When Congress wishes to provide its consent or give direction on a gift's disposition, it passes a resolution or private bill.[8] But if Congress wishes to decline a request, it can simply do nothing. Because acceptance requires affirmative consent, inaction by either House functions as a denial of that consent. *See* 8

[8] In addition, legislation has provided blanket consent for particular classes of benefits, *e.g.*, 5 U.S.C. § 7342 (gifts of minimal value and decorations); 37 U.S.C. § 908 (civil employment by foreign governments). But where blanket consent has not been given, "any other emolument stands forbidden." 6 Op. O.L.C. 156, 158 (1982).

Annals of Cong. 1593 (failure of resolution in House after Senate passage); H.R. Rep. No. 65-695, at 5 (noting that despite State Department recommendations to give consent, "[i]t has not been the pleasure of Congress to act favorably upon these recommendations").

In sum, the structure established by the Foreign Emoluments Clause is textually clear and historically settled. *Before* an official accepts an emolument from a foreign state, he must obtain the affirmative consent of Congress.

Congress, of course, "consist[s] of a Senate and House of Representatives," U.S. Const. art. I, § 1, and each member of the House and Senate has a right to vote on every matter, *see id.* art. I, § 3, cl. 1 ("each Senator shall have one Vote"); *id.* art. I, § 5, cl. 3 (requiring the House and Senate to record "the Yeas and Nays of the Members" upon request). The Constitution, therefore, expressly entitles individual members of Congress to vote on whether to consent to an official's acceptance of a foreign emolument before he accepts it.

To be sure, this is not a private right enjoyed in a Congressmember's personal capacity, but rather a prerogative of his office. It "runs (in a sense) with the Member's seat" and will eventually transfer to his successor. *Raines*, 521 U.S. at 821. During a member's time in office, however, he alone wields the voting power assigned to his seat, and his vote is "the commitment of his apportioned share of the legislature's power to the passage or defeat of a particular proposal."

Nev. Comm'n on Ethics v. Carrigan, 564 U.S. 117, 125-26 (2011). While no single member can dictate the outcome, every member is entitled to cast a vote and have that vote counted.

By accepting foreign emoluments without first obtaining Congress's consent, President Trump is denying Plaintiffs specific votes to which they are constitutionally entitled. As explained next, that is an Article III injury.

B. Vote Nullification

1. As first recognized in *Coleman*, legislators suffer an "institutional injury" sufficient to confer standing when their votes are "deprived of all validity." *Raines*, 521 U.S. at 821-22. In *Coleman*, Kansas officials treated a federal constitutional amendment as having been ratified by the state senate even though, according to the plaintiffs, the senate had not ratified it. 307 U.S. at 435-36. The Supreme Court rejected an argument that the plaintiffs "ha[d] no standing" and "lack[ed] an adequate interest to invoke our jurisdiction," explaining that the votes of the senators who opposed ratification were "overridden and virtually held for naught." *Id.* at 437-38. While these senators sustained no "private damage," as legislators they could vindicate their "right and privilege under the Constitution of the United States to have their votes given effect." *Id.* at 445, 438.

The Supreme Court has repeatedly reaffirmed *Coleman*. *See, e.g.*, *Ariz. State Legislature*, 135 S. Ct. at 2665 & n.13 (confirming "the precedential weight

of *Coleman*" and relying on its standing analysis); *Raines*, 521 U.S. at 826 (reaffirming *Coleman*); *cf. Va. House of Delegates v. Bethune-Hill*, 139 S. Ct. 1945, 1954 (2019) (distinguishing *Coleman*). And beginning with *Kennedy v. Sampson*, 511 F.2d 430 (D.C. Cir. 1974), this Court has repeatedly applied *Coleman* to cases involving federal legislators. *Kennedy* recognized a Senator's standing "to vindicate the effectiveness of his vote" after an unlawful pocket veto, coining the term "nullification" to describe that injury. *Id.* at 436.

While *Kennedy* was fundamentally an "application of the narrow rule announced in *Coleman*," *Chenoweth*, 181 F.3d at 116, it also articulated a broader theory of standing—declaring that any "diminution of congressional influence" harms individual Congressmembers because of its derivative effect on their own "influence," *Kennedy*, 511 F.2d at 435; *cf. Metcalf v. Nat'l Petroleum Council*, 553 F.2d 176, 188 (D.C. Cir. 1977) (alleged harm to the "quality of legislation" Congress could enact). Later decisions clarified *Kennedy*'s narrow scope, requiring a plaintiff to show that "harm to the institution" has caused a more concrete "harm to himself," such as the "nullification of a specific vote." *Harrington v. Bush*, 553 F.2d 190, 199 n.41, 211 (D.C. Cir. 1977). Acknowledging "the separation of powers problems inherent in suits brought by individual members," *id.* at 214, this Court also began asking whether Congressmembers had "a remedy in the legislative process," *Daughtrey v. Carter*,

584 F.2d 1050, 1058 n.32 (D.C. Cir. 1978).

Ultimately, this Court drew a sharp distinction between "Executive action that nullifies a specific congressional vote or opportunity to vote" and "a diminution in a legislator's effectiveness, subjectively judged by him or her, resulting from Executive action withholding information or failing to obey a statute ... where the plaintiff-legislator still has power to act through the legislative process to remedy the alleged abuses." *Goldwater v. Carter*, 617 F.2d 697, 702 (D.C. Cir. 1979) (en banc), *vacated on other grounds*, 444 U.S. 996 (1979).

Under *Coleman*, *Kennedy*, and *Goldwater*, therefore, legislator standing requires "a complete nullification or withdrawal of a voting opportunity." *Id.*; *see Bliley v. Kelly*, 23 F.3d 507, 510 (D.C. Cir. 1994); *Barnes v. Kline*, 759 F.2d 21, 29 (D.C. Cir. 1984), *vacated as moot by Burke v. Barnes*, 479 U.S. 361 (1987); *AFL-CIO v. Pierce*, 697 F.2d 303, 305 (D.C. Cir. 1982); *Riegle v. Fed. Open Mkt. Comm.*, 656 F.2d 873, 877 (D.C. Cir. 1981). That standard is met when, among other things, legislators have no "effective remedies." *Goldwater*, 617 F.2d at 703; *see infra*, Part I.D.

2. *Raines v. Byrd* reaffirmed *Coleman* and, in the process, endorsed the key tenets of this Court's *Kennedy*/*Goldwater* framework—its nullification requirement and its focus on the availability of effective legislative remedies.

The *Raines* plaintiffs did not allege that any votes they had cast were

invalidated or that they were being deprived of their right to vote. Instead, they maintained that the Line Item Veto Act "alter[ed] the constitutional balance of powers between the Legislative and Executive Branches." *Raines*, 521 U.S. at 816. By diminishing Congress's influence vis-à-vis the President, the Act allegedly diminished their own influence and changed how they performed their duties. *Id.* at 817.

Although these claims did not fit the *Kennedy*/*Goldwater* framework, by then this Court had expanded legislator standing well beyond that framework, permitting a Congressmember's suit to proceed "if his influence is substantially diminished." *Boehner v. Anderson*, 30 F.3d 156, 160 (D.C. Cir. 1994). Members could challenge acts that "diluted" their votes, *see Michel v. Anderson*, 14 F.3d 623, 626 (D.C. Cir. 1994) (extending voting rights to delegates); *Vander Jagt v. O'Neill*, 699 F.2d 1166, 1167 (D.C. Cir. 1982) (providing fewer seats on committees than proportionally owed), or that harmed the body in which they served, *see Moore v. U.S. House of Representatives*, 733 F.2d 946, 953 (D.C. Cir. 1984) (allowing Senate to originate revenue-raising bill instead of House); *cf. Vander Jagt*, 699 F.2d at 1180 (Bork, J., concurring) (advocating a return to the "very demanding test" of *Goldwater* and its "distinction between diminution of a legislator's influence and nullification of his vote").

Applying this precedent, the district court in *Raines* held that the plaintiffs

had standing without once mentioning *Coleman*, *Kennedy*, or *Goldwater*. It reasoned that the Act "dilute[d]" the plaintiffs' power and "affect[ed]" their duties by changing "the dynamic of lawmaking." *Byrd v. Raines*, 956 F. Supp. 25, 30-31 (D.D.C. 1997) (citing *Michel*, 14 F.3d at 625; *Vander Jagt*, 699 F.2d at 1168-71; and *Moore*, 733 F.2d at 950-54). On direct appeal, the plaintiffs argued that "the 'meaning' and 'integrity' of their vote ha[d] changed." *Raines*, 521 U.S. at 825 (quoting brief).

The Supreme Court rejected the "drastic extension of *Coleman*" needed to sustain that claim. *Id.* at 826. Explaining why, "the Court emphasized that the congressmen were not asserting that their votes had been 'completely nullified.'" *Campbell*, 203 F.3d at 22. When the Act was passed, the plaintiffs' votes "were given full effect. They simply lost that vote." *Raines*, 521 U.S. at 824. And the Act would not "nullify their votes in the future." *Id.* Because no past votes were disregarded and no future votes denied, *Coleman* provided "little meaningful precedent," *id.*, for the plaintiffs' argument: "There is a vast difference between the level of vote nullification at issue in *Coleman* and the abstract dilution of institutional legislative power that is alleged here." *Id.* at 826. While Congress may have lost clout, no right of individual lawmakers was impaired. "None of the plaintiffs, therefore, could tenably claim a 'personal stake' in the suit." *Ariz. State Legislature*, 135 S. Ct. at 2664 (quoting *Raines*, 521 U.S. at 830).

That is what *Raines* said. Here is what it did *not* say.

First, *Raines* did not hold that individual legislators cannot sue over injury to their institutional powers. That would have required overruling *Coleman*. The Justice Department advocated precisely that, arguing that a legislator has no "judicially cognizable personal interest in the proper performance of his legislative duties." Appellants' Br. 23, 1997 WL 251415. But the Court instead reaffirmed *Coleman*, as it did again in *Arizona State Legislature*. *See* 135 S. Ct. at 2665 n.13.

Nor did *Raines* hold that the relative novelty of congressional lawsuits forecloses them. The Court discussed that history, observing that it "appear[ed]" to cut against the plaintiffs, only after concluding that their claims had no doctrinal foundation. 521 U.S. at 826 ("Not only do appellees lack support from precedent, but historical practice *appears to cut against them* as well." (emphasis added)). Had the Court meant that members of Congress can never sue the executive branch, it could have said that. The rest of the opinion—not to mention this Court's discussions in two subsequent opinions, *see infra*—would have been unnecessary.

Raines also did not suggest that legislators lack standing if *every* legislator's vote is nullified. When the Court described the claimed injury as "damag[ing] all Members of Congress and both Houses of Congress equally," 521 U.S. at 821, it was explaining why this claim did not fit the mold of *Powell v. McCormack*, 395

U.S. 486 (1969), where a Congressman was "singled out for specially unfavorable treatment as opposed to other Members" concerning a "private right," *Raines*, 521 U.S. at 821. When the Court addressed "institutional injury" under *Coleman*, it distinguished that case on the entirely different grounds described above, without suggesting that vote nullification requires that a legislator be singled out. *Id.* at 821-26. Moreover, the alleged injury in *Raines* was not only "widely dispersed" but also "wholly abstract." *Id.* at 829. "Often the fact that an interest is abstract and the fact that it is widely shared go hand in hand. But their association is not invariable, and where a harm is concrete, though widely shared, the Court has found 'injury in fact.'" *Fed. Election Comm'n v. Akins*, 524 U.S. 11, 24 (1998). The "injuries from a mass tort, for example, are widely shared," but that "does not of itself make that injury a nonjusticiable generalized grievance." *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1548 n.7 (2016). So too for the denial of an individual right held exclusively by the 535 voting members of Congress.

And while *Raines* noted that the Court's decision would not "foreclose[] the Act from constitutional challenge," 521 U.S. at 829, it did not say that congressional standing turns on whether a private party could bring the same challenge—an idea this Court has "expressly" rejected, *Melcher v. Fed. Open Mkt. Comm.*, 836 F.2d 561, 565 (D.C. Cir. 1987). In any event, no private party is capable of bringing a suit that challenges the full range of the President's

emoluments violations.[9]

Finally, *Raines*'s use of the caveat "at most" in describing what *Coleman* stands for, 521 U.S. at 823, did not imply that vote nullification is limited to *Coleman*'s precise situation. As explained by the accompanying footnote, this caveat simply acknowledged that the Justice Department raised arguments against *federal* legislator suits that the Court did not address. *Id.* at 824 n.8. If *Raines* had restricted vote-nullification standing to situations, like *Coleman*, where legislators claim that they had sufficient numbers to prevail in a past vote, the Court would not have needed to reserve judgment on various hypotheticals involving future vote deprivation. *See id.* at 824 n.7 (declining to address scenarios "in which first-term Members were not allowed to vote on appropriations bills, or in which *every* Member was disqualified ... from voting on major federal projects in his or her own district" (quotation marks omitted)). *Raines* rejected "a *drastic* extension" of *Coleman*, *id.* at 826 (emphasis added)—not *any* extension of its rationale.

3. Any doubt about that was resolved by *Arizona State Legislature*. Applying *Coleman* to a significantly different scenario, *Arizona* confirmed that

[9] Although two other pending lawsuits involve the President's unlawful acceptance of emoluments, those suits relate exclusively to his D.C. and New York hotels and restaurants. They cannot lead to judicial orders covering any of the President's other hotels and resorts, payments to his skyscrapers (the source of "[t]he real money in the Trump empire," Alexander & Drange, *supra*), his acceptance of foreign trademarks, or the regulatory favors conferred on his business ventures abroad.

nullification includes the unlawful deprivation of a vote—a cognizable injury regardless of how the never-held vote might have turned out.

Relying on *Coleman*, the Court held that a legislature could challenge a ballot measure that withdrew its redistricting authority because the measure "would 'completely nullif[y]' any vote by the Legislature, now or 'in the future,' purporting to adopt a redistricting plan." *Ariz. State Legislature*, 135 S. Ct. at 2665 (quoting *Raines*, 521 U.S. at 823-24). The Court rejected the argument that nullification required showing that a particular plan would have been enacted but for the unlawful withdrawal of the legislature's voting power. *See* U.S. Br. 21, 2015 WL 309078 ("appellant has not identified any 'specific' redistricting legislation that a sufficient number of state legislators have voted ... to enact"); Appellees' Br. 20, 2015 WL 254635 ("Appellant cannot point to any specific legislative act that would have taken effect but for Proposition 106."). Unpersuaded, the Court confirmed that illegally denying the right to cast binding votes, standing alone, can be a "[]sufficiently concrete" injury to confer standing. *Ariz. State Legislature*, 135 S. Ct. at 2663.

Consistent with that view, the Court denied standing in *Bethune-Hill* partly because the purported injury—judicial invalidation of a statute—did not deprive the plaintiff of any future voting power.

In *Bethune-Hill*, "a single chamber of a bicameral legislature" claimed

standing to appeal the judicial invalidation of a state redistricting law. 139 S. Ct. at 1950. Rejecting that claim, the Court explained it had "never held that a judicial decision invalidating a state law as unconstitutional inflicts a discrete, cognizable injury on each organ of government that participated in the law's passage." *Id.* at 1953. (By contrast, the Court *has* clearly held that legislators are injured by the complete nullification of their votes, and that nullification can include the denial of a voting opportunity.) There was simply "no support for the notion that one House of a bicameral legislature, resting solely on its role in the legislative process, may appeal on its own behalf a judgment invalidating a state enactment." *Id.* Assuming the same rule applies to members of Congress, this is nothing new. *See Daughtrey*, 584 F.2d at 1057 ("Once a bill becomes law, a Congressman's interest in its enforcement is shared by, and indistinguishable from, that of any other member of the public.").

Critically, the Court emphasized that vote nullification was not implicated in *Bethune-Hill*, because the plaintiff was permitted to play its full role in the enactment of the legislation: "Unlike *Coleman*, this case does not concern the results of a legislative chamber's poll or the validity of any counted or uncounted vote. At issue here, instead, is the constitutionality of a concededly enacted redistricting plan." *Bethune-Hill*, 139 S. Ct. at 1954. And just as no vote was disregarded in the past, none would be impaired in the future: "the challenged

order does not alter the General Assembly's dominant initiating and ongoing role in redistricting." *Id.*

The plaintiff, in short, sought to assert the interests of the larger body of which it was a part, without showing any harm to its own individual prerogatives. This was the same type of "mismatch" as in *Raines*. *Id.* at 1953-54 ("Just as individual members lack standing to assert the institutional interests of a legislature, a single House of a bicameral legislature lacks capacity to assert interests belonging to the legislature as a whole." (citation omitted)).

4. After *Raines*, this Court acknowledged the need to pare back its expansive doctrine on legislator standing. But it also recognized that *Raines* is compatible with the continued recognition of vote nullification, which means "treating a vote that did not pass as if it had, or vice versa," in the "unusual situation" where plaintiffs have no "legislative remedy." *Campbell*, 203 F.3d at 22-23. This Court rejected claims of legislator standing in *Chenoweth* and *Campbell* not because it concluded that vote nullification claims are no longer cognizable, but because neither case satisfied that two-part test.

The *Chenoweth* plaintiffs argued that an environmental program created by executive order required new statutory authority, and that its unilateral creation impaired "their constitutionally guaranteed responsibility of open debate and vote on issues and legislation." 181 F.3d at 113 (quoting complaint). The plaintiffs did

not allege that the President had prevented Congress from legislating, however, or (conversely) that he had issued laws without Congress's participation. They simply claimed that the President had "exceeded his statutory and constitutional authority." *Id.* at 112. And while *ultra vires* presidential conduct might diminish the influence of Congress, and by extension its members, effecting a "dilution of their authority," this was the same "abstract" injury rejected in *Raines*. *Id.* at 115. Individual legislators were again trying to maintain the balance of power between Congress and the President without demonstrating any impairment of their own voting rights. *Id.* at 116.

Campbell involved a similar claim—that military strikes ordered by the President were unlawful without a declaration of war. 203 F.3d at 20. After Congress voted to fund those strikes, but voted down an explicit authorization and a declaration of war, dissatisfied Congressmembers filed suit. *Id.* Their claim "essentially [wa]s that the President .... acted illegally—in excess of his authority—because he waged war in the constitutional sense without a congressional delegation." *Id.* at 22. The President, however, had not purported to declare war, a formal act triggering emergency statutes and other "profound" legal consequences. *Id.* at 29 (Randolph, J., concurring in the judgment). He claimed power to order the strikes "pursuant to [his] constitutional authority to conduct U.S. foreign relations and as Commander-in-Chief." *Id.* at 22 (majority opinion);

cf. U.S. Const. art. I, § 8, cl. 11 (empowering Congress "To declare War" but not specifying how that power bears on the President's military authority). So the plaintiffs could not (and did not) claim interference with their procedural role in voting to declare war.

Notably, even despite this disconnect, *Campbell* never rejected the plaintiffs' contention that the President had deprived them of a vote. Instead, it denied standing because it concluded that Congress had "ample legislative power to have stopped prosecution of the 'war.'" 203 F.3d at 23.

Campbell and *Chenoweth* thus differed from this suit with respect to *both* halves of the vote-nullification test. In neither case were the plaintiffs deprived of a specific required vote, nor did Congress lack adequate legislative remedies.

Without a doubt, these decisions curtailed the sweeping doctrine this Court had previously embraced, explaining that "the portions of our legislative standing cases *upon which the current plaintiffs rely* are untenable in the light of *Raines*." *Chenoweth*, 181 F.3d at 115 (emphasis added); *see id.* at 113 ("[t]hey rely primarily upon *Moore*"). But in doing so, this Court carefully distinguished the broader theories of legislative standing it had once endorsed from the "narrow rule" of *Coleman*, which demands "a complete nullification" of legislators' votes. *Id.* at 116-17; *see Campbell*, 203 F.3d at 24 n.6.

The requirements of that narrow rule are met here. President Trump is

taking the precise action that the Foreign Emoluments Clause says he "shall" not take without Congress's consent, treating votes that did not pass as if they had. *Campbell*, 203 F.3d at 22. And in the unusual circumstances of his violations, Congress has no "adequate political remedy," *id*. at 21; *see infra*, Part I.D.

C. Denial of the Plaintiffs' Votes

President Trump does not dispute, as a factual matter, that he is depriving Plaintiffs of any prior opportunity to vote on the benefits he is accepting from foreign governments. Instead, he insists that this denial of Plaintiffs' right to vote does not confer standing.

The President first argues that *Coleman* "does not apply to claims brought by Members of Congress." Appellant's Br. 26. The Justice Department made that argument in *Raines*, without success. *See* 521 U.S. at 824 n.8. *Raines* simply noted what this Court has long recognized: cases involving federal legislators implicate the separation of powers. *Id.* *Arizona State Legislature* did the same. 135 S. Ct. at 2665 n.12. That a suit raises separation-of-powers concerns does not mean it is precluded by those concerns. *See Bethune-Hill*, 139 S. Ct. at 1959 (Alito, J., dissenting) ("If one House of Congress or one or more Members of Congress attempt to invoke the power of a federal court, the court *must consider whether* this attempt is consistent with the structure created by the Federal Constitution. An interest asserted by a Member of Congress or by one or both

Houses of Congress *that is inconsistent with that structure* may not be judicially cognizable." (emphasis added)).

President Trump next claims that nullification occurs only when the plaintiffs' votes would be "sufficient to defeat (or enact)" the measure in question. Appellant's Br. 27 (quoting *Raines*, 521 U.S. at 823). Not so. When legislators assert that the result of a prior vote was overridden—as in *Coleman*—a showing of majority support is essential: in that situation, after all, the only basis for claiming nullification is that the majority's will was unlawfully thwarted. And in such a case, the injury extends only to those legislators whose votes were overridden. *See Coleman*, 307 U.S. at 446 ("the twenty senators whose votes ... would have been sufficient to defeat the resolution ... have an interest in the controversy"). Therefore, such plaintiffs must show "that they voted for [the] bill, that there were sufficient votes to pass the bill, and that the bill was nonetheless deemed defeated." *Raines*, 521 U.S. at 824.

But as this Court has recognized, legislators who are denied their right to cast a vote at all are injured by that denial alone—which certainly deprives their votes "of all validity," *id.* at 822, regardless of what the result might have been. Consider if the defendants in *Coleman* had simply deemed the constitutional amendment ratified without submitting it for a vote. That would have injured the plaintiffs no less than allowing them to go through the motions of voting but then

ignoring the outcome. At bottom, the harm is identical: a denial of legislators' right to cast a vote that is given the legal effect which it is due. *Arizona State Legislature* leaves no doubt on this score, rejecting the argument that nullification requires showing that a legislative majority would have supported any particular outcome. *See supra* at 21.

The President also mischaracterizes Plaintiffs' claim—repeatedly describing Plaintiffs as suing over "injuries to Congress" or "to enforce the asserted institutional interests of Congress." Appellant's Br. 1, 7, 12. Plaintiffs are not attempting to represent Congress any more than the *Coleman* plaintiffs sought to represent the Kansas legislature. Rather than trying to redress an injury to the body in which they serve, they are trying to redress an injury to their own individual voting rights. *Compare Bender v. Williamsport Area Sch. Dist.*, 475 U.S. 534, 544 (1986) (school board member could not "step into the shoes of the Board" and litigate on its behalf in a dispute involving no prerogatives of individual members), *with id.* at 544 n.7 ("It might be an entirely different case if, for example, state law authorized School Board action solely by unanimous consent, in which event [he] might claim that he was legally entitled to protect 'the effectiveness of [his] vot[e].'" (quoting *Coleman*, 307 U.S. at 438)).

President Trump also tries to wish away the uniqueness of the Foreign Emoluments Clause—and with it, the extremely limited implications of a holding

that Plaintiffs have standing here. In response to Plaintiffs' observation that only two constitutional provisions require congressional "consent" before federal officials may take specific actions, the President says that this distinction is "illusory," Appellant's Br. 18—and then cites as evidence the *other* provision, *see* U.S. Const. art. II, § 2, cl. 2 (appointments and treaties). He never even responds to the critical point: only the Foreign Emoluments Clause employs a congressional "consent" requirement to regulate officials' *private* behavior. Because of that distinctive combination, the President is able to deprive Plaintiffs of specific required votes in a context where Congress's normal remedies are ineffective.

Exaggerating Plaintiffs' position further, the President claims that it would allow suit any time Congressmembers allege that the executive has exceeded statutory authority. But a president who misinterprets the boundaries of statutory authority is simply violating that statute. *Dalton v. Specter*, 511 U.S. 462, 473-74 (1994). Members of Congress, having already fulfilled their unique procedural role in enacting the statute, have no special interest in its enforcement. *Bowsher v. Synar*, 478 U.S. 714, 733 (1986) ("once Congress makes its choice in enacting legislation, its participation ends"); *Daughtrey*, 584 F.2d at 1057 (rejecting standing based on "post-enactment impropriety in the administration of laws"); *see Hollingsworth v. Perry*, 570 U.S. 693, 706-07 (2013) (distinguishing the "'unique,' 'special,' and 'distinct' role" that a legislative participant enjoys during "the

process of enacting the law" from the lack of any special role after the law is "duly enacted" (quotation marks omitted)).

To be sure, things might be different if a President unilaterally purported to issue new laws. He would then be taking the precise action for which Article I, Section 7 requires the participation of the House and Senate, and thereby "treating a vote that did not pass as if it had." *Campbell*, 203 F.3d at 22. The possibility of congressional standing if that extraordinary situation were to arise is hardly "breathtaking." Appellant's Br. 19.

D. Legislative Remedies

1. Recognizing that suits by members of Congress raise separation-of-powers concerns, this Court developed a strict limiting principle to ameliorate those concerns: members have standing only if Congress cannot remedy their injury. *See, e.g.*, *Goldwater*, 617 F.2d at 702 ("Whether the President's action amounts to a complete disenfranchisement depends on whether appellees .... have effective power to block the termination of this treaty despite the President's action[.]"); *Riegle*, 656 F.2d at 879 (moving this inquiry into a standalone separation-of-powers analysis).

Endorsing that principle, *Raines* "denied [the plaintiffs] standing as congressmen because they possessed political tools with which to remedy their purported injury." *Campbell*, 203 F.3d at 24. That prompted this Court to

"merge" its standing and separation-of-powers analyses, *Chenoweth*, 181 F.3d at 116, and to clarify that a lack of legislative remedies is intrinsic to vote nullification, *Campbell*, 203 F.3d at 22-23.[10]

To warrant dismissal, however, a legislative remedy must be "adequate." *Raines*, 521 U.S. at 829; *Campbell*, 203 F.3d at 21. Generalized bromides about congressional "self-help" are useless—this Court must be satisfied that Congress could, if it wished, stop President Trump from accepting unauthorized foreign emoluments. In *Raines*, for instance, the Line Item Veto Act had "no effect" on Congress's power to exempt bills from the Act or repeal it entirely. 521 U.S. at 824. In *Chenoweth*, it was "uncontested" that Congress could terminate the challenged environmental program. 181 F.3d at 116. And in *Campbell*, "Congress ha[d] a broad range of legislative authority it [could have] use[d] to stop a President's war making." 203 F.3d at 23.

Significantly, too, Congress had *unilateral* options at its disposal in all three cases—it could have "stop[ped]" the challenged conduct itself, *id*., without presidential acquiescence. In *Raines*, Congress could have exempted any bill, or

[10] In claiming that Plaintiffs' position would allow one House of Congress (or any member) to sue the other, the President overlooks this need to establish that Congress, as a whole, cannot remedy a plaintiff's injury. He also overlooks the fact that any suit against "sovereign States" based on the Constitution's other provisions requiring congressional consent, Appellant's Br. 19, would also raise untested federalism concerns.

portion thereof, from the President's line-item-veto authority. 521 U.S. at 824. And in *Campbell* and *Chenoweth*, Congress could have made use of its "absolute control of the moneys of the United States," *Rochester Pure Waters Dist. v. EPA*, 960 F.2d 180, 185 (D.C. Cir. 1992) (quotation marks omitted), by declining to appropriate funds for any activities it wished to halt. *See Campbell*, 203 F.3d at 23 ("Congress ... could have cut off funds for the American role in the conflict.").

Finally, vote nullification does not require *certainty* that a legislative remedy would be inadequate. *See id.* (the *Coleman* senators "may well have been" powerless to rescind the state's ratification of a constitutional amendment); *id.* at 22 ("[i]t is not at all clear whether ... the Kansas Senate could have done anything").

2. When a President violates the Foreign Emoluments Clause through his personal businesses, Congress has no adequate remedy.

Unlike most constitutional provisions, the Clause regulates *private* conduct—the personal acceptance of foreign benefits. *See* 11 Op. O.L.C. 89, 90 (1987). Because presidents can accept such benefits without the assistance of government funds or personnel, Congress has limited tools available to respond.

Resisting that key point, President Trump lists several powers held by Congress and declares, without explanation, that "[u]sing these remedies, Congress may seek to force the Executive to comply with its view of the law." Appellant's

Br. 23. But nowhere does he explain precisely how Congress could force his private companies to stop accepting unauthorized payments from foreign governments. And none of his purported solutions would adequately vindicate Plaintiffs' voting rights under the Clause, because all of them depend on one of two things: (1) persuading President Trump to voluntarily stop accepting foreign emoluments, or (2) marshalling congressional supermajorities to affirmatively reject those emoluments. Neither is an adequate remedy.

The President seems to concede that Congress cannot literally stop him from accepting foreign payments through its power of the purse, normally Congress's "most complete and effectual weapon" for enforcing its will. *United States v. Munoz-Flores*, 495 U.S. 385, 395 (1990) (quoting *The Federalist No. 58*, at 359 (James Madison)). And congressional resolutions condemning the President's conduct or disapproving of specific emoluments (when Congress happens to learn about them) would have no binding effect and would not force the President to relinquish those emoluments. Likewise, congressional investigations could, at best, expose more violations—not stop them.[11]

[11] Through most of this litigation, President Trump maintained that "the congressional subpoena process" furnished an adequate remedy. *E.g.*, Mandamus Pet. 26, *In re Donald J. Trump*, No. 19-5196 (D.C. Cir. July 8, 2019). Now that his personal lawyers have told this Court that "monitoring the President's compliance with the Foreign Emoluments Clause" has no "legitimate purpose," Appellants' Br. 41, *Trump v. Mazars USA, LLP*, No. 19-5142 (D.C. Cir. June 10, 2019), the Justice Department has abandoned that argument.

3. The President mentions legislation, but he conspicuously fails to explain what kind of legislation could solve this problem. And regardless, obtaining President Trump's signature would require him to voluntarily stop enriching himself—a theoretical possibility, but hardly one that furnishes an adequate remedy. *See Ariz. State Legislature*, 135 S. Ct. at 2663 (standing for vote nullification does not require pursuing action that would be "unavailing"). The President's private financial stake in defeating that legislation introduces a dynamic entirely missing in *Raines*, *Chenoweth*, and *Campbell*. Indeed, this Court has never cited legislation as an available remedy in any case where the President had a "direct, personal, substantial pecuniary interest," *Tumey v. Ohio*, 273 U.S. 510, 523 (1927), in the matter. Cajoling President Trump into forgoing additional foreign rewards is an especially poor way to vindicate a constitutional provision that gives Congress total authority over such rewards—and the President none.

To be sure, Congress can override presidential vetoes, but that "solution" cannot adequately restore Plaintiffs' voting rights under the Foreign Emoluments Clause. The Clause's only function is to establish a default prohibition in which Congress's *failure* to act is a denial of consent. That structure places the burden on any official who wishes to accept benefits from a foreign state to move Congress to action. Significant barriers stand in the way of such an effort. Any measure must compete for attention with other priorities. Numerous parliamentary hurdles must

be surmounted. Members must be willing to go on record supporting acceptance. Ultimately, a majority must vote for the measure. The entire process must then be repeated in the other House. The Clause harnesses these obstacles in aid of its purpose, placing a formidable barrier in the way of foreign largesse.

Demanding instead that congressional supermajorities act to *reject* a President's emoluments would transform the Clause beyond recognition, making legislative roadblocks an ally of foreign corruption instead of an enemy. If the President can accept foreign rewards until Congress musters two-thirds majorities to pass legislation reining him in, the Clause might as well not exist. That cannot be an "adequate remedy," *Raines*, 521 U.S. at 829, for a violation of the Clause.

4. The same goes for impeachment, which requires a two-thirds Senate majority to convict. While *Campbell* mentioned impeachment, it did not suggest that this power always offers adequate recourse. It simply noted that impeachment was available as an enforcement mechanism if the President openly defied Congress's use of the more surgical options at its disposal there, by illegally spending government funds and otherwise breaking explicit federal law. 203 F.3d at 23. Because Congress had numerous ample remedies, *Campbell* had no occasion to consider whether impeachment, standing alone, is an adequate remedy in every situation, for every type of violation—which would mean eliminating all congressional standing.

In addition, withholding judicial relief based on the impeachment power would force Congressmembers to choose between acceding to *all* the emoluments the President is accepting or overturning the last election. That Hobson's choice falls far short of vindicating their right to evaluate foreign emoluments on a case-by-case basis. President Trump himself claims that impeachment "entails massive costs to our nation's economy, national security, diplomacy, and political health." Appellants' Br. 46, *Mazars USA*, No. 19-5142 (D.C. Cir. June 10, 2019).

5. The President has one final suggestion: Congress can retaliate against him on matters unrelated to his emoluments violations, by "withhold[ing] funds from the Executive" or "declin[ing] to enact legislation that the Executive desires." Appellant's Br. 23. This is startling. To continue profiting from foreign governments, President Trump is arguing that Congress, instead of seeking a judicial ruling, should inflict collateral damage on the American people by adopting government policies that may be detrimental to the nation.

The separation of powers does not require that destructive result. *See Barnes*, 759 F.2d at 29 (discussing "retaliation by Congress in the form of refusal to approve presidential nominations, budget proposals, and the like," and concluding: "That sort of political cure seems to us considerably worse than the disease, entailing, as it would, far graver consequences for our constitutional system than does a properly limited judicial power to decide what the Constitution

means in a given case."). Accordingly, neither the Supreme Court nor this Court has ever held the option of such retaliation to be an adequate remedy—which would also be tantamount to eliminating all congressional standing.

* * *

Article III's standing requirements prevent a would-be plaintiff who merely "suffers in some indefinite way in common with people generally," *Massachusetts v. Mellon*, 262 U.S. 447, 488 (1923), from seeking relief "that no more directly and tangibly benefits him than it does the public at large," *Hollingsworth*, 570 U.S. at 706 (quoting *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 574 (1992)). Members of Congress, however, are not "concerned bystanders," *id.* at 707, when it comes to the acceptance of foreign emoluments. The Constitution designates them as the central players. It is President Trump who has pushed them to the sidelines. The Plaintiffs have standing.

II. The Plaintiffs Have a Cause of Action

A. Equitable Review

Article III empowers the judiciary to decide "all Cases, in Law and Equity," U.S. Const. art. III, § 2, cl. 1, and Congress has "conferred on the federal courts jurisdiction over 'all suits ... in equity.'" *Grupo Mexicano de Desarrollo, S.A. v. All. Bond Fund, Inc.*, 527 U.S. 308, 318 (1999) (quoting Judiciary Act of 1789, § 11, 1 Stat. 73, 78). The "availability of injunctive relief," therefore, depends not

on statutory causes of action but "on traditional principles of equity jurisdiction." *Id.* at 319 (citation omitted).

When injured plaintiffs invoke a court's equitable powers, the question is simply "whether the relief ... requested ... was traditionally accorded by courts of equity." *Id*. And as the Supreme Court has repeatedly made clear, "equitable relief ... is traditionally available to enforce federal law." *Armstrong v. Exceptional Child Ctr., Inc.*, 135 S. Ct. 1378, 1385-86 (2015); *Harmon v. Brucker*, 355 U.S. 579, 581-82 (1958) ("Generally, judicial relief is available to one who has been injured by an act of a government official which is in excess of his ... powers."); *accord Carroll v. Safford*, 44 U.S. 441, 463 (1845).

Under traditional equitable principles, relief is available where jurisdictional requirements are met and "a wrong is done, for which there is no plain, adequate, and complete remedy in the Courts of Common Law." 1 Joseph Story, *Commentaries on Equity Jurisprudence* § 49, at 53 (1836). Such wrongs include "continuing injuries" that "cannot be estimated in damages." *Osborn v. Bank of U.S.*, 22 U.S. 738, 841-42 (1824); *see Payne v. Hook*, 74 U.S. 425, 430 (1868) (where a court "ha[s] jurisdiction to hear and determine th[e] controversy, ... [t]he absence of a complete and adequate remedy at law, is the only test of equity jurisdiction").

In particular, "injunctive relief has long been recognized as the proper means

for preventing entities from acting unconstitutionally." *Corr. Servs. Corp. v. Malesko*, 534 U.S. 61, 74 (2001); *see Bell v. Hood*, 327 U.S. 678, 684 (1946). Indeed, when a plaintiff is injured by a constitutional violation, including a "separation-of-powers" violation, equitable review "directly under the Constitution" is available "as a general matter." *Free Enter. Fund v. Pub. Co. Accounting Oversight Bd.*, 561 U.S. 477, 491 n.2 (2010) (citing, *inter alia*, *Ex parte Young*, 209 U.S. 123 (1908)). "Congress may *displace* the equitable relief that is traditionally available," *Armstrong*, 135 S. Ct. at 1385 (emphasis added), but "its intent to do so must be clear," *Webster v. Doe*, 486 U.S. 592, 603 (1988); *accord Porter v. Warner Holding Co.*, 328 U.S. 395, 398 (1946).

President Trump offers a very different view. All his contentions lack support, and many have been explicitly repudiated.

To start, the President mischaracterizes the exercise of equitable authority as a decision to "create a cause of action," Appellant's Br. 30, and therefore as something courts should resist. But in doing so, he confuses the use of traditional equitable powers with the entirely different concept of crafting an "implied cause[] of action *for damages*." *Ziglar v. Abbasi*, 137 S. Ct. 1843, 1855 (2017) (emphasis added). Unlike the judicial creation of a damages remedy, "redress designed to halt or prevent [a] constitutional violation" is a "traditional form[] of relief" and "d[oes] not ask the Court to imply a new kind of cause of action." *United States v.*

Stanley, 483 U.S. 669, 683 (1987) (citation omitted); *see Ziglar*, 137 S. Ct. at 1856; *Malesko*, 534 U.S. at 74 (contrasting injunctive relief with "the *Bivens* remedy, which we have never considered a proper vehicle for altering an entity's policy").

President Trump also suggests that courts may pick and choose which constitutional violations are subject to equitable review—a notion rebuffed in *Free Enterprise Fund*. There too, the government argued that courts should be "reluctant to imply a cause of action where Congress has not provided one," U.S. Br. 22, 2009 WL 3290435 (quotation marks omitted), and asserted that the Court had never "'recognized an implied private right of action ... to challenge governmental action under the Appointments Clause or separation-of-powers principles,'" 561 U.S. at 491 n.2 (quoting brief). The Court explained, however, that equitable review is available "as a general matter, without regard to the particular constitutional provisions at issue," and seemed puzzled by the contrary argument: "If the Government's point is that an Appointments Clause or separation-of-powers claim should be treated differently than every other constitutional claim, it offers no reason and cites no authority why that might be so." *Id.*

The President next suggests that equitable review is available only when "preemptively asserting a defense to a potential enforcement action," Appellant's Br. 29, but that has never been true. *See, e.g.*, *Franklin v. Massachusetts*, 505 U.S.

788, 801 (1992); *Santa Fe Pac. R.R. Co. v. Payne*, 259 U.S. 197, 198-99 (1922); *Kendall v. United States ex rel. Stokes*, 37 U.S. 524, 608-09 (1838). So he proposes more nebulously that equity protects only certain types of legal interests—what he calls "personal property or liberty." Appellant's Br. 29-30. But he offers no precedent drawing his proposed distinction, much less dismissing a claim on this basis.

Contrary to the President's suggestions, courts have rejected the idea that equitable review becomes an "expansion of past practice," *Grupo Mexicano*, 527 U.S. at 329, whenever it involves a type of plaintiff or legal interest not addressed in previous cases. "[A]lthough the precise case may never have occurred, if the same principle applies, the same remedy ought to be afforded." *Osborn*, 22 U.S. at 841; *see, e.g.*, *LaRoque v. Holder*, 650 F.3d 777, 786, 792-93 (D.C. Cir. 2011) (potential candidate for local office had equitable cause of action to challenge enforcement of law that allegedly made it harder for him to win).

The President tries to shoehorn his argument into the rule that equity cannot provide "a type of relief that has never been available before." *Grupo Mexicano*, 527 U.S. at 322. But that rule is about the *type of relief*—*Grupo Mexicano*, for instance, involved a particular kind of preliminary injunction "specifically disclaimed by longstanding judicial precedent." *Id.* While courts may not "create remedies previously unknown to equity jurisprudence," *id.* at 332, the remedy

sought in this case—an injunction ordering a public official to stop violating the Constitution—is as traditional as it gets.

President Trump also claims that Plaintiffs must "engag[e] in the self-help measure of codifying a cause of action," Appellant's Br. 30, rather than invoke the courts' traditional equitable powers. That gets things backward. Equitable relief is presumptively available to enforce constitutional limits unless legislation has clearly *displaced* that relief. *Armstrong* 135 S. Ct. at 1385-86.

At bottom, the President seems to be arguing that a case involving institutional prerogatives, rather than private rights, is unsuitable for equitable relief. If anything, the opposite is true. "When federal law is at issue and 'the public interest is involved,' a federal court's 'equitable powers assume an even broader and more flexible character than when only a private controversy is at stake." *Kansas v. Nebraska*, 135 S. Ct. 1042, 1053 (2015) (quoting *Porter*, 328 U.S. at 398). But Plaintiffs do not need that extra boost: their right to equitable review here is indisputable.[12]

[12] Separately, President Trump maintains that equitable review against presidents is impermissible because, he says, courts require an express statement before construing a *statute* as applying to presidents. He cites no authority for that inferential leap. And as for the premise itself, the decision he cites merely declined to interpret the Administrative Procedure Act as silently making the President's actions reviewable "for abuse of discretion." *Franklin*, 505 U.S. at 801. It then noted that his actions "may still be reviewed for constitutionality." *Id.* The President's only other citation involves the appropriateness of inferring a *damages* remedy. *Nixon v. Fitzgerald*, 457 U.S. 731, 748 n.27 (1982).

B. Zone of Interests

Nor is the "zone of interests" test any barrier. It is clear after *Lexmark International, Inc. v. Static Control Components, Inc.*, 134 S. Ct. 1377 (2014), that the test governs only "statutorily created" causes of action, *id.* at 129; *see Ray Charles Found. v. Robinson*, 795 F.3d 1109, 1120-21 (9th Cir. 2015) (*Lexmark* "recast the zone-of-interests inquiry as one of statutory interpretation"); *Collins v. Mnuchin*, 938 F.3d 553, 574 (5th Cir. 2019) (en banc) ("The Supreme Court once considered the zone of interests a matter of 'prudential standing,' but now calls it one of statutory interpretation."). When Congress creates a cause of action to help enforce a statute, the zone-of-interests test is a "tool for determining who may invoke the cause of action," *Lexmark*, 572 U.S. at 130. "Whether a plaintiff comes within the zone of interests," therefore, "is an issue that requires [courts] to determine, using traditional tools of statutory interpretation, whether a legislatively conferred cause of action encompasses a particular plaintiff's claim." *Id.* at 127 (quotation marks omitted). The issue is simply "whether the statute grants the plaintiff the cause of action that he asserts." *Bank of Am. Corp. v. Miami*, 137 S. Ct. 1296, 1302 (2017).

Even before *Lexmark*, the Supreme Court never dismissed a constitutional claim under the zone-of-interests test. Only once did the Court even apply the test to a constitutional claim, *Bos. Stock Exch. v. State Tax Comm'n*, 429 U.S. 318, 320

n.3 (1977), and it has routinely adjudicated such claims without mentioning the test. *E.g.*, *Free Enter. Fund*, 561 U.S. 477; *Dames & Moore v. Regan*, 453 U.S. 654 (1981); *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952).

Moreover, if a zone-of-interests test did apply, Plaintiffs would easily satisfy it. "The test is not meant to be especially demanding," and it does not require plaintiffs to be intended beneficiaries of the relevant provision. *Clarke v. Sec. Indus. Ass'n*, 479 U.S. 388, 399 (1987). Plaintiffs need only "arguably" be within the zone of interests. *Bank of Am. Corp.*, 137 S. Ct. at 1301. They will fail only if their interests "are so marginally related to or inconsistent with the purposes" of the provision that they cannot "reasonably" be thought to fall within it. *Thompson v. N. Am. Stainless, LP*, 562 U.S. 170, 178 (2011) (citation omitted).[13]

Those standards are easily met here. The voting rights Plaintiffs seek to vindicate are at the heart of the Clause, which combats corruption by giving members of Congress the exclusive power to approve foreign emoluments. Before *Lexmark*, this Court repeatedly held that analogous interests passed muster. *Riegle*, 656 F.2d at 879 (deprivation of Senator's "right to advise and consent to the appointment of officers" was "within the zone of interests protected by the Appointments Clause"); *Moore*, 733 F.2d at 953 (Origination Clause); *Kennedy*,

[13] Urging a higher standard for constitutional claims, the President cites *Clarke*, 479 U.S. at 400 n.16. But the quoted passage actually discusses cases in which plaintiffs argued that a *statute* implicitly provided a cause of action.

511 F.2d at 434 (Presentment Clause).

C. Relief Against the President

Finally, President Trump falls back on his one-size-fits-all defense: the judiciary cannot order him to stop violating the Constitution. This claim ultimately rests on the enigmatic statement in *Mississippi v. Johnson*, 71 U.S. 475, 501 (1866), that courts may not enjoin the President "in the performance of his official duties." But whatever help *Johnson* might offer the President elsewhere, it is plainly inapplicable here.

Johnson addressed the performance of the unique responsibilities assigned to the office of the President—the "purely executive and political" duties entrusted to the chief executive, such as "carrying into effect an act of Congress." *Id.* at 498-99. But the mandate imposed by the Foreign Emoluments Clause is not unique to the President. It is not about executing the laws, conducting foreign relations, or any other duty assigned to President Trump *as President*. Simply put, "there is no possibility" that the injunction sought here "will curtail the scope of the official powers of the Executive Branch." *Clinton v. Jones*, 520 U.S. 681, 701 (1997).

By contrast, the injunction sought in *Johnson* would have restrained the President from "assign[ing] generals to command in the several military districts," supported by "military force .... under [his] supervision ... as commander-in-chief." 71 U.S. at 499. Likewise, the injunction in *Franklin* would have directed the

President's performance of his statutory duty to determine "the number of Representatives to which each State [is] entitled." 505 U.S. at 792. (And notably, *Franklin* avoided resolving whether even *that* injunction was permissible. *Id.* at 803.)

To be sure, courts "normally direct legal process to a lower Executive official." *Nixon v. Sirica*, 487 F.2d 700, 709 (D.C. Cir. 1973); *e.g.*, *Franklin*, 505 U.S. at 803. But in "unusual" situations, "the court's order must run directly to the President." *Sirica*, 487 F.2d at 709; *e.g.*, *id.* (the President had "personal custody of [materials] sought by [a] subpoena"). "It is settled law that the separation-of-powers doctrine does not bar every exercise of jurisdiction over the President," *Fitzgerald*, 457 U.S. at 753-54, and "that the President is subject to judicial process in appropriate circumstances," *Jones*, 520 U.S. at 703; *see*, *e.g.*, *id.* at 705-06; *United States v. Nixon*, 418 U.S. 683, 713 (1974); *United States v. Burr*, 25 F. Cas. 30, 34 (C.C.D. Va. 1807) (Marshall, C.J.). This case "represents one of those rare instances" where only "relief against the President himself will redress [the] injury." *Swan v. Clinton*, 100 F.3d 973, 979 (D.C. Cir. 1996).

Further, even if this case involved unique duties of the presidency, the injunction sought would not be prohibited. *Johnson* and *Franklin* both "explicitly left open" whether courts may require the President "to perform a ministerial duty," that is, one that an official "has no authority to determine whether to

perform." *Id.* at 977-78; *see Johnson*, 71 U.S. at 498 ("It is a simple, definite duty ... imposed by law."). Because "the President is bound to abide by the requirements" of the Clause, his obligation to do so "is ministerial and not discretionary." *Swan*, 100 F.3d at 977.

That does not change merely because the Clause's scope is subject to debate. "[A] ministerial duty can exist even where the interpretation of the controlling statute is in doubt, provided that the statute, once interpreted, creates a peremptory obligation ...." *Id.* at 978 (quotation marks omitted). Nor because the President may need to make decisions about how to comply. Every legal mandate "to some extent requires construction by the public officer whose duties may be defined therein." *Wilbur v. Krushnic*, 280 U.S. 306, 318 (1930) (citation omitted). "But that does not ... make the duty of the officer anything other than a purely ministerial one," nor render the courts "powerless to give relief." *Id.* at 318-19. "No case holds that an act is discretionary merely because the President is the actor." *Sirica*, 487 F.2d at 712.

III. President Trump Is Violating the Foreign Emoluments Clause

There is no doubt that President Trump's unauthorized acceptance of payments and other benefits from foreign governments violates the Constitution.

A. At the Founding, "emolument" was a common term that referred generally to benefit and advantage. *See Oxford English Dictionary* (2d ed. 1989)

(citing eighteenth-century texts). Every known dictionary of the era defined "emolument" broadly as "profit," "advantage," "gain," and/or "benefit." John Mikhail, *The Definition of "Emolument" in English Language and Legal Dictionaries, 1523–1806*, at 8 (July 12, 2017), https://ssrn.com/abstract=2995693. These definitions reflected contemporary usage: state constitutions, legal treatises, court decisions, general-purpose writings, and the personal correspondence of the Founders all used the word in this way. *See* J.A. 292-93 (examples); Clark D. Cunningham & Jesse Egbert, *Using Empirical Data To Investigate the Original Meaning of 'Emolument' in the Constitution* 10 (Sept. 27, 2019), https://ssrn.com/abstract=3460735 ("*emolument* had a very broad meaning rather than identifiable discrete different meanings").

Significantly, "emolument" was widely used to denote income from private commerce, "including leasing, agriculture, trades, markets, and other business." James Cleith Phillips & Sara White, *The Meaning of the Three Emoluments Clauses in the U.S. Constitution: A Corpus Linguistic Analysis of American English, 1760–1799*, 59 S. Tex. L. Rev. 181, 218 (2017). Indeed, this type of financial profit was at the core of the word's meaning. *See* J.A. 295-96.

The Foreign Emoluments Clause incorporates this broad and inclusive meaning, prohibiting "any ... Emolument ... *of any kind whatever*." The italicized phrase is not surplusage, nor does it emphasize the Clause's lack of exceptions.

That work is already done by the text's reference to "*any* ... Emolument." Rather than rule out interpretations that would allow some emoluments to be accepted, this phrase rules out interpretations that would allow some "kinds" of emoluments to be accepted. *See* 2 Op. O.L.C. 345, 346 n.3 (1977).

When the Framers referred only to the emoluments of a government office, they specified this textually. *See* U.S. Const. art. I, § 6, cl. 2 (referring to "any civil Office" and "the Emoluments *whereof*" (emphasis added)). And that, again, reflected contemporary usage. *See* Cunningham & Egbert, *supra*, at 14.

B. Even if the Clause prohibited only "emoluments," therefore, it would cover the financial payments President Trump is accepting from foreign governments. But the Clause does more. It bars four distinct but overlapping types of benefits—presents, emoluments, offices, and titles—followed by an emphatic modifier used nowhere else in the Constitution: "of any kind whatever." The clear aim of this language is to "lock up every door to foreign influence," 8 Annals of Cong. 1584, by proscribing every type of benefit with the "potential of influencing or corrupting the integrity of the recipient," 5 Op. O.L.C. 187, 188 (1981). What President Trump disparages as redundancy, Appellant's Br. 41, is *comprehensiveness*.[14]

[14] Even the broadest definition of "emolument" does not make the word "present" redundant. For instance, photographs with only sentimental value would be presents but not emoluments. *See* 24 Op. Att'y Gen. at 118.

Indeed, the word "emolument" was frequently used in this manner, as part of a string of similar terms, to ensure a comprehensive sweep. *See* Phillips & White, *supra*, at 215-16 (explaining that these formulations signal an "all-inclusiveness .... that is more ... than just the sum of their semantic parts"); Cunningham & Egbert, *supra*, at 11 (similar). To give each of the Clause's four terms a narrow, technical meaning, insisting on hermetic divisions between them, is at odds with the text's clear import and its well-understood goal of combatting "foreign influence of every sort," 3 Joseph Story, *Commentaries on the Constitution of the United States* § 1346, at 216 (1833).

"Consistent with its expansive language and underlying purpose," therefore, the Clause "has been interpreted as being 'particularly directed against every kind of influence by foreign governments upon officers of the United States.'" 11 Op. O.L.C. at 90 (quoting 24 Op. Att'y Gen. at 117). Congress and past presidents have always understood it to encompass all manner of benefits. *See supra*. Likewise, the Justice Department and Comptroller General have for generations directed that congressional consent is required for *any* gift or financial reward from a foreign government, whether consulting fees, travel expenses, law firm partnership earnings, pension payments, employment as a public-school teacher, military insignia, honorary foreign citizenship, or even photographs offered as "a simple remembrance of courtesy." J.A. 159-60, 165-66, 302-03; 2 Op. O.L.C.

at 346; *see* 15 Op. O.L.C. 65, 67 (1991) ("absent congressional consent," officials "may not ... receive any payment from[] a foreign government").

C. In the face of all this, President Trump insists that "the Clause prohibits only compensation accepted from a foreign government for services rendered by an officer in either an official capacity or employment-type relationship." Appellant's Br. 39. There is a reason this convoluted interpretation has never been advanced before. Its requirement of an "employment-type" relationship is based on an obviously flawed reading of (selected) dictionary entries. *Id.* Its alternative requirement—the provision of specific services to a foreign government in one's official capacity—is based on nothing at all.

The President's entire argument rests on a false premise—that there was a definition of "emolument" at the Founding limited to compensation from a government position or an employer–employee relationship. There is no basis for this claim. President Trump cites a contemporary dictionary that defined "emolument" to include "profit arising from an office or employ." *Id.* (quoting *Barclay's A Complete and Universal English Dictionary on a New Plan* 437 (1774)). He assumes that "employ" means "employment" in the modern sense of being another person's employee. But the very next page in *Barclay's* defines "employ" to include "a person's trade, business." *Id.* at 438. Thus, even the President's cherry-picked authority defines "emolument" as including "profit

arising from ... a person's trade, business." *Id.* at 437-38. At the Founding, an innkeeper received profit from his "trade, business" no less than a domestic servant. Likewise, the word "office" did not mean only a *government* office. *See id.* at 799 (defining "office" to include "private employment").

Apart from this misinterpreted dictionary entry, there is literally nothing to show that what the President calls "the narrower, office-or-employment reading," Appellant's Br. 40, ever existed. The narrower alternative definition that *did* exist squarely covers his business income.

With no textual support, the President trots out dogs that didn't bark. None of the historical silences he points to, however, support his inferences. He claims that some Founders "exported their goods to other nations" without taking precautions to avoid transacting with "a foreign government instrumentality." *Id.* at 43. But he cites no evidence that any Founder ever did business with such an entity, or that avoiding doing so would have required special precautions in the eighteenth century. He calls it "inconceivable" that a failed constitutional amendment involving foreign emoluments was meant to apply to "all lodge owners whose customers included visiting foreign diplomats using their governments' funds." *Id.* at 45. Yet according to his own theory, the proposed amendment *would* apply, say, to a household servant temporarily hired by a visiting diplomat. (He also overlooks the political climate of the day—Washington, D.C., after all,

was set on fire by foreign troops while the amendment was up for ratification.) Most telling, he is still discussing poorly documented land purchases by George Washington, even though his factual premise has been undermined,[15] and even though the *most* this could illustrate would be a violation of the *Domestic* Emoluments Clause, which does not prohibit "any ... Emolument ... of any kind whatever."

This smattering of dubious inferences is apparently what the President means by "consistent Executive practice from the Founding era to modern times." Appellant's Br. 39. But the actual history of executive practice is found in the uniform record of presidential compliance with the Clause, *see* J.A. 163-66, and the consistent body of Justice Department precedent recognizing that the "expansive language and underlying purpose" of the Clause require it to "be given broad scope." 10 Op. O.L.C. at 98; *see* J.A. 299-303. Far from demanding an "employment-type" relationship, this precedent has rejected such an artificial requirement. 17 Op. O.L.C. at 117 (recognizing violation where officials "do not personally represent foreign governmental clients and have no dealings with them"). While most opinions identifying prohibited emoluments have involved

[15] *See* Office of Inspector General, U.S. General Services Administration, *Evaluation of GSA's Management and Administration of the Old Post Office Building Lease* 15 (Jan. 16, 2019) (concluding "that these six lots were owned privately," not by the federal government).

employment or consulting work, the explanation for that is simple: most officials requesting guidance about the Clause are not real estate magnates, but rather people who earn money by providing their labor and expertise.

D. The President gains nothing from hypotheticals involving different, and far more attenuated, types of financial arrangements, in part because an official must "accept" an emolument "from" a foreign state to violate the Clause. When people hold stocks in a publicly traded corporation—as opposed to owning part of a private company or partnership—it will rarely (if ever) be true that any "identifiable" proceeds they receive "could fairly be attributed to a foreign government," 17 Op. O.L.C. at 119-20, or that the corporation could serve as a "mere conduit" for foreign funds, *id*. at 118. Likewise, even if a book purchase made by a foreign public university helps trigger contractual obligations on the part of a publisher to increase an author's royalty payments, this does not mean the author has "accepted" an emolument from a foreign state on that basis alone. *See also* 33 Op. O.L.C., 2009 WL 6365082, at *7-11 (2009) (discussing the difficulties of determining when a public university's actions can be deemed those of a foreign state).

In any event, construing the Clause "may present difficult problems of scope in borderline cases," but there is "nothing borderline about this case." *Lorenzo v. SEC*, 139 S. Ct. 1094, 1101 (2019). Foreign governments are "indisputably and

directly" paying the President's privately owned companies. 33 Op. O.L.C., 2009 WL 6365082, at *7 n.7.

And it is President Trump's rule, not Plaintiffs', that would "lead to absurd results." Appellant's Br. 39. He says a foreign government may pay him to lease space in Trump Tower, but may not hire him to personally clean that unit once a week. If, however, he owns a company that provides cleaning services, the foreign government may pay him after all. That bizarre interpretation of the Clause would sap its vitality as a bulwark against foreign influence, throwing open the doors to the corruption of any official wealthy enough to own businesses. The President never explains why the Clause would prevent one official from accepting $150 to review a Ph.D. thesis, 18 Op. O.L.C. at 17, but would allow another to accept millions of dollars through his business empire.

President Trump may feel that the Clause's severity makes unreasonable demands on a business owner like him. But the Framers provided a solution: obtain "the Consent of the Congress." Adherence to that rule is all Plaintiffs are seeking.

CONCLUSION

For the foregoing reasons, the district court's orders should be affirmed.

Respectfully submitted,

Dated: October 22, 2019

/s/ Brianne J. Gorod
Elizabeth B. Wydra
Brianne J. Gorod
Brian R. Frazelle
CONSTITUTIONAL ACCOUNTABILITY CENTER
1200 18th Street NW, Suite 501
Washington, D.C. 20036
(202) 296-6889
brianne@theusconstitution.org

Counsel for Appellees

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) because it contains 12,995 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f) and Circuit Rule 32(e)(1).

I further certify that the attached brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6), because it has been prepared in a proportionally spaced typeface using Microsoft Word 14-point Times New Roman font.

Executed this 22nd day of October, 2019.

/s/ Brianne J. Gorod
Brianne J. Gorod

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of October, 2019, I electronically filed the foregoing document using the Court's CM/ECF system, causing a notice of filing to be served upon all counsel of record.

Dated: October 22, 2019

/s/ Brianne J. Gorod
Brianne J. Gorod

ADDENDUM

CONTENTS

Page

5 U.S.C. § 7342 Receipt and disposition of foreign gifts and decorations

(a) For the purpose of this section—

(1) "employee" means—

(A) an employee as defined by section 2105 of this title and an officer or employee of the United States Postal Service or of the Postal Regulatory Commission;

(B) an expert or consultant who is under contract under section 3109 of this title with the United States or any agency, department, or establishment thereof, including, in the case of an organization performing services under such section, any individual involved in the performance of such services;

(C) an individual employed by, or occupying an office or position in, the government of a territory or possession of the United States or the government of the District of Columbia;

(D) a member of a uniformed service;

(E) the President and the Vice President;

(F) a Member of Congress as defined by section 2106 of this title (except the Vice President) and any Delegate to the Congress; and

(G) the spouse of an individual described in subparagraphs (A) through (F) (unless such individual and his or her spouse are separated) or a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of such an individual, other than a spouse or dependent who is an employee under subparagraphs (A) through (F);

(2) "foreign government" means—

(A) any unit of foreign governmental authority, including any foreign national, State, local, and municipal government;

(B) any international or multinational organization whose membership is composed of any unit of foreign government described in subparagraph (A); and

(C) any agent or representative of any such unit or such organization, while acting as such;

(3) "gift" means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government;

(4) "decoration" means an order, device, medal, badge, insignia, emblem, or award tendered by, or received from, a foreign government;

(5) "minimal value" means a retail value in the United States at the time of acceptance of $100 or less, except that—

(A) on January 1, 1981, and at 3 year intervals thereafter, "minimal value" shall be redefined in regulations prescribed by the Administrator of General Services, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period; and

(B) regulations of an employing agency may define "minimal value" for its employees to be less than the value established under this paragraph; and

(6) "employing agency" means—

(A) the Committee on Standards of Official Conduct of the House of Representatives, for Members and employees of the House of Representatives, except that those responsibilities specified in subsections (c)(2)(A), (e)(1), and (g)(2)(B) shall be carried out by the Clerk of the House;

(B) the Select Committee on Ethics of the Senate, for Senators and employees of the Senate, except that those responsibilities (other than responsibilities involving approval of the employing agency) specified in subsections (c)(2), (d), and (g)(2)(B) shall be carried out by the Secretary of the Senate;

(C) the Administrative Office of the United States Courts, for judges and judicial branch employees; and

(D) the department, agency, office, or other entity in which an employee is employed, for other legislative branch employees and for all executive branch employees.

(b) An employee may not—

(1) request or otherwise encourage the tender of a gift or decoration; or

(2) accept a gift or decoration, other than in accordance with the provisions of subsections (c) and (d).

(c)(1) The Congress consents to—

(A) the accepting and retaining by an employee of a gift of minimal value tendered and received as a souvenir or mark of courtesy; and

(B) the accepting by an employee of a gift of more than minimal value when such gift is in the nature of an educational scholarship or medical treatment or when it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States, except that—

(i) a tangible gift of more than minimal value is deemed to have been accepted on behalf of the United States and, upon acceptance, shall become the property of the United States; and

(ii) an employee may accept gifts of travel or expenses for travel taking place entirely outside the United States (such as transportation, food, and lodging) of more than minimal value if such acceptance is appropriate, consistent with the interests of the United States, and permitted by the employing agency and any regulations which may be prescribed by the employing agency.

(2) Within 60 days after accepting a tangible gift of more than minimal value (other than a gift described in paragraph (1)(B)(ii)), an employee shall—

(A) deposit the gift for disposal with his or her employing agency; or

(B) subject to the approval of the employing agency, deposit the gift with that agency for official use.

Within 30 days after terminating the official use of a gift under subparagraph (B), the employing agency shall forward the gift to the Administrator of General Services in accordance with subsection (e)(1) or provide for its disposal in accordance with subsection (e)(2).

(3) When an employee deposits a gift of more than minimal value for disposal or for official use pursuant to paragraph (2), or within 30 days after accepting travel or travel expenses as provided in paragraph (1)(B)(ii) unless such travel or travel expenses are accepted in accordance with specific instructions of his or her employing agency, the employee shall file a statement with his or her employing agency or its delegate containing the information prescribed in subsection (f) for that gift.

(d) The Congress consents to the accepting, retaining, and wearing by an employee of a decoration tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the employing agency of such employee. Without this approval, the decoration is deemed to have been accepted on behalf of the United States, shall become the property of the United States, and shall be deposited by the employee, within sixty days of acceptance, with the employing agency for official use, for forwarding to the Administrator of General Services for disposal in accordance with subsection (e)(1), or for disposal in accordance with subsection (e)(2).

(e)(1) Except as provided in paragraph (2), gifts and decorations that have been deposited with an employing agency for disposal shall be (A) returned to the donor, or (B) forwarded to the Administrator of General Services for transfer, donation, or other disposal in accordance with the provisions of subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41. However, no gift or decoration that has been deposited for disposal may be sold without the approval of the Secretary of State, upon a determination that the sale will not adversely affect the foreign relations of the United States. Gifts and decorations may be sold by negotiated sale.

(2) Gifts and decorations received by a Senator or an employee of the Senate that are deposited with the Secretary of the Senate for disposal, or are deposited for an official use which has terminated, shall be disposed of by the Commission on Arts and Antiquities of the United

States Senate. Any such gift or decoration may be returned by the Commission to the donor or may be transferred or donated by the Commission, subject to such terms and conditions as it may prescribe, (A) to an agency or instrumentality of (i) the United States, (ii) a State, territory, or possession of the United States, or a political subdivision of the foregoing, or (iii) the District of Columbia, or (B) to an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of such Code. Any such gift or decoration not disposed of as provided in the preceding sentence shall be forwarded to the Administrator of General Services for disposal in accordance with paragraph (1). If the Administrator does not dispose of such gift or decoration within one year, he shall, at the request of the Commission, return it to the Commission and the Commission may dispose of such gift or decoration in such manner as it considers proper, except that such gift or decoration may be sold only with the approval of the Secretary of State upon a determination that the sale will not adversely affect the foreign relations of the United States.

(f)(1) Not later than January 31 of each year, each employing agency or its delegate shall compile a listing of all statements filed during the preceding year by the employees of that agency pursuant to subsection (c)(3) and shall transmit such listing to the Secretary of State who shall publish a comprehensive listing of all such statements in the Federal Register.

(2) Such listings shall include for each tangible gift reported—

(A) the name and position of the employee;

(B) a brief description of the gift and the circumstances justifying acceptance;

(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift;

(D) the date of acceptance of the gift;

(E) the estimated value in the United States of the gift at the time of acceptance; and

(F) disposition or current location of the gift.

(3) Such listings shall include for each gift of travel or travel expenses—

(A) the name and position of the employee;

(B) a brief description of the gift and the circumstances justifying acceptance; and

(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift.

(4)(A) In transmitting such listings for an element of the intelligence community, the head of such element may delete the information described in subparagraph (A) or (C) of paragraph (2) or in subparagraph (A) or (C) of paragraph (3) if the head of such element certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources or methods.

(B) Any information not provided to the Secretary of State pursuant to the authority in subparagraph (A) shall be transmitted to the Director of National Intelligence who shall keep a record of such information.

(C) In this paragraph, the term "intelligence community" has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).1

(g)(1) Each employing agency shall prescribe such regulations as may be necessary to carry out the purpose of this section. For all employing agencies in the executive branch, such regulations shall be prescribed pursuant to guidance provided by the Secretary of State. These regulations shall be implemented by each employing agency for its employees.

(2) Each employing agency shall—

(A) report to the Attorney General cases in which there is reason to believe that an employee has violated this section;

(B) establish a procedure for obtaining an appraisal, when necessary, of the value of gifts; and

(C) take any other actions necessary to carry out the purpose of this section.

(h) The Attorney General may bring a civil action in any district court of the United States against any employee who knowingly solicits or accepts a gift from a foreign government not consented to by this section or who fails to deposit or report such gift as required by this section. The court in which such action is brought may assess a penalty against such employee in any amount not to exceed the retail value of the gift improperly solicited or received plus $5,000.

(i) The President shall direct all Chiefs of a United States Diplomatic Mission to inform their host governments that it is a general policy of the United States Government to prohibit United States Government employees from receiving gifts or decorations of more than minimal value.

(j) Nothing in this section shall be construed to derogate any regulation prescribed by any employing agency which provides for more stringent limitations on the receipt of gifts and decorations by its employees.

(k) The provisions of this section do not apply to grants and other forms of assistance to which section 108A of the Mutual Educational and Cultural Exchange Act of 1961 applies.

37 U.S.C. § 908 Employment of reserves and retired members by foreign governments

(a) Congressional consent.—Subject to subsection (b), Congress consents to the following persons accepting civil employment (and compensation for that employment) for which the consent of Congress is required by the last paragraph of section 9 of article I of the Constitution, related to acceptance of emoluments, offices, or titles from a foreign government:

(1) Retired members of the uniformed services.

(2) Members of a reserve component of the armed forces.

(3) Members of the Commissioned Reserve Corps of the Public Health Service.

(b) Approval required.—A person described in subsection (a) may accept employment or compensation described in that subsection only if the Secretary concerned and the Secretary of State approve the employment.

(c) Military service in foreign armed forces.—For a provision of law providing the consent of Congress to service in the military forces of certain foreign nations, see section 1060 of title 10.

RESOLUTIONS.

Jan. 27, 1835.

I. Whereas the Winchester and Potomac Railroad Company have found it impracticable to make the railroad through the grounds belonging to the United States at Harper's Ferry, agreeably to the exact tenor of the joint resolution passed for their benefit at the last session of Congress,

Ante, p. 744.

Road to be completed under the approval of the President.

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, That the said Winchester and Potomac Railroad Company are hereby authorized to complete said railroad, as now located through said grounds, on paying the value of any improvements injured by the road, or giving authority to replace them in other positions, should they be deemed by the President of sufficient importance to be paid for or removed: *Provided, however*, That the road shall be constructed in such place, as far as it passes through the public grounds at Harper's Ferry, as may be approved by the President.

Proviso.

Approved, January 27, 1835.

Feb. 13, 1835.

II. A Resolution *presenting a gold medal to George Croghan, and a sword to each of the officers under his command, for their gallantry and good conduct, in the defence of Fort Stephenson, in eighteen hundred and thirteen.*

Gold medal to be presented to Col. Croghan.

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, That the President of the United States be requested to cause a gold medal to be struck, with suitable emblems and devices, and presented to Colonel Croghan, in testimony of the high sense entertained by Congress of his gallantry and good conduct in the defence of fort Stephenson, and that he present a sword to each of the following officers engaged in that affair; to Captain James Hunter, to the eldest male representative of Lieutenant Benjamin Johnston, and to Lieutenants Cyrus A. Baylor, John Meek, Ensign Joseph Duncan, and the nearest male representative of Ensign Edmund Shipp, deceased.

Swords to be presented other officers.

Approved, February 13, 1835.

Feb. 13, 1835.

III. Resolution *for the disposition of a lion and two horses, received as a present by the consul of the United States at Tangier, from the Emperor of Morocco.*

President to cause the horses to be sold, and to present the lion to some institution.

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, That the President of the United States be, and he is hereby authorized to cause the two horses received as a present by the consul of the United States at Tangier, from the Emperor of Morocco, to be sold in Washington city, by public auction, on the last Saturday of February, one thousand eight hundred and thirty-five, and to cause the proceeds thereof to be placed in the treasury of the United States, and that the lion, received in like manner, be presented to such suitable institution, person, or persons as the President of the United States may designate.

Approved, February 13, 1835.

for said county, shall be returnable and returned on the days for holding said criminal court, prescribed by this statute.

APPROVED, March 1, 1845.

STATUTE II.

March 1, 1845.

CHAP. XXXVI.—*An Act in alteration of an act entitled "An act to establish a port of delivery at the city of Lafayette, in the State of Louisiana."*

Vessels may, after proceeding to Lafayette, make report and entry at New Orleans.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all vessels bound to the city of Lafayette, in the State of Louisiana, may, after proceeding thereto, and making report and entry at the port of New Orleans, within the time limited by law, be permitted to unlade their cargoes at said Lafayette, under the rules and regulations prescribed by law, and such further regulations as the Secretary of the Treasury may deem necessary. And so much of the first section of the act entitled "An act to establish a port of delivery at the city of Lafayette, in the State of Louisiana," approved June twelve, one thousand eight hundred and forty-four, as is inconsistent with this act, is hereby repealed.

Act of June 12, 1844, ch. 46.

APPROVED, March 1, 1845.

STATUTE II.

March 1, 1845.

CHAP. XXXVII.—*An Act making appropriations for the payment of navy pensions for the year ending thirtieth June, eighteen hundred and forty-six.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of navy pensions for the year ending the thirtieth June, eighteen hundred and forty-six.

Invalid pensions.

To pay invalid pensions, forty thousand dollars;

Privateer pensions.

To pay the privateer pensions, three thousand dollars;

Widows' pensions.

To pay widows' pensions, twelve thousand dollars;

Deficiency in widows' pensions.

Act of June 30, 1834, ch. 134.

To supply a deficiency in the appropriation for paying widows' pensions under the act of June thirtieth, eighteen hundred and thirty-four, for the year ending thirtieth June, eighteen hundred and forty-five, six thousand dollars.

APPROVED, March 1, 1845.

STATUTE II.

March 1, 1845.

CHAP. XXXVIII.—*An Act to authorize the sale of two Arabian horses, received as a present by the Consul of the United States at Zanzibar, from the Imaum of Muscat.*

Horses, when to be sold.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized to cause the two horses received as a present by the Consul of the United States at Zanzibar, from the Imaum of Muscat, to be sold in Washington city by public auction, on the last Saturday of February, one thousand eight hundred and forty-five, and to cause the proceeds thereof to be placed in the Treasury of the United States.

APPROVED, March 1, 1845.

STATUTE II.

March 1, 1845.

CHAP. XXXIX.—*An Act to change the time of holding the Federal courts in Kentucky, North Carolina, South Carolina, Georgia, Alabama and Louisiana.*

Circuit and district courts in Kentucky.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act the fall sessions of the circuit and district courts of the said United States for the district of Kentucky, heretofore commenced and held on the third Monday in November, annually, shall in-

1852, ch. 108. and diplomatic expenses of the Government for the year ending thirtieth June, eighteen hundred and fifty-three, and for other purposes," there be substituted the first Comptroller of the Treasury, who is hereby charged with their duties as specified in said act, and that the accounts of said A. Boyd Hamilton be settled as prescribed in said section of said act, and that he be paid any sum that may be found due to him at the Treasury of the United States upon the certificate of said Comptroller.

Payment.

APPROVED, March 27, 1854.

June 29, 1854. [No. 14.] *A Resolution giving the consent of Congress to the acceptance by Lieutenant M. F. Maury, of the Navy, of a Gold Medal from His Majesty the King of Sweden.*

Lieut. M. F. Maury allowed to accept a gold medal from the King of Sweden.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Lieutenant M. F. Maury, of the United States Navy, be, and he is hereby, authorized to accept a gold medal recently presented to him by His Majesty the King of Sweden.

APPROVED, June 29, 1854.

July 17, 1854. [No. 15.] *Joint Resolution to correct a clerical error in the Act approved June twenty-second, eighteen hundred and fifty-four, "to authorize a Register to be issued to the steamer 'El Paraguay,' by a new name."*

1854, ch. 64.

Clerical error in act of 1854, ch. 64, corrected.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the word "Joy" where it occurs in the "Act to authorize a register to be issued to the steamer 'El Paraguay' by a new name," approved June twenty-second, eighteen hundred and fifty-four, shall read and be held to mean *Ivy.*

APPROVED, July 17, 1854.

July 27, 1854. [No. 19.] *A Resolution authorizing the Secretary of the Territory of New Mexico to adjust and pay to Juan C. Armijo, Jose L. Perea, and James L. Collins, the amount by them loaned to the Legislative Assembly of the Territory of New Mexico, under authority of a Joint Resolution of that body, approved the seventeenth of June eighty[eighteen]hundred and fifty-one.*

Accounts of J. C. Armijo, J. L. Perea, and J. L. Collins, for loan to New Mexico, to be settled and paid.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Territory of New Mexico be authorized to adjust and pay to Juan C. Armijo, Jose L. Perea, and James L. Collins, the amount of a loan, with interest, by them made to the Legislative Assembly of the Territory of New Mexico, negotiated by authority of a joint resolution of that body, approved on the seventeenth of June, eighteen hundred and fifty-one. The payment to be made out of the unexpended fund appropriated by Congress for legislative expenses in said Territory, and in accordance with the agreement made when the loan was negotiated.

APPROVED, July 27, 1854.

Aug. 1, 1854. [No. 20.] *Joint Resolution giving One Hundred and Sixty Acres of Land to Francis M. Gwin, of Indiana.*

Land warrant for 160 acres to issue to Francis M. Gwin.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby directed to issue to Francis M. Gwin, of New Albany, Indiana, a land warrant for one hundred and sixty acres of land, in consideration of his gallant services in serving during the Mexican war whilst he was a minor.

APPROVED, August 1, 1854.

Aug. 30, 1856. [No. 3.] *A Resolution allowing Doctor E. K. Kane, and the Officers associated with him in their late Expedition to the Arctic seas, in search of Sir John Franklin, to accept such Token of Acknowledgment from the Government of Great Britain as it may please to present.*

Preamble. WHEREAS, the President of the United States has communicated to Congress a request from the Government of Great Britain that permission should be given by this Government allowing Doctor Elisha K. Kane, a Passed-Assistant Surgeon in the Navy of the United States, and the officers who were with him in his late expedition to the Arctic seas in search of Sir John Franklin, to accept from the Government of Great Britain some "token of thankfulness," and as a memorial of the sense entertained by that Government of "their arduous and generous services" in that behalf—

Dr. Kane and the other officers of the Arctic Expedition authorized to accept a testimonial from the British Government.

Be it therefore resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress hereby consents that Dr. Elisha K. Kane, of the Navy of the United States, and such of the officers who were with him in the expedition aforesaid, as may yet remain in the service of the United States, may accept from the Government of Great Britain such token of the character aforesaid as it may be the pleasure of that government to present to them.

APPROVED, August 30, 1856.

Aug. 30, 1856. [No. 4.] *A Resolution authorizing Alexander D. Bache to accept a Medal presented to him by the King of Sweden.*

A. D. Bache authorized to accept the medal presented to him by Sweden.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Alexander D. Bache, Superintendent of the Coast Survey, be and he is hereby authorized to accept the gold medal recently presented to him by the King of Sweden.

APPROVED, August 30, 1856.

RESOLUTIONS.

[No. 5.] Joint resolution authorizing Commander Edmund O. Matthews, of the United States Navy, to accept a gilt teapot from the Emperor of Siam — Dec. 15, 1877.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Commander Edmund O. Matthews, of the United States Navy, be, and is hereby, authorized to accept a gilt teapot, of native manufacture and trifling value, presented by the Emperor of Siam as a souvenir.

Commander Matthews may accept present.

Approved, December 15, 1877.

[No. 7.] Joint resolution authorizing Rear Admiral William Reynolds, of the United States Navy, to accept certain presents tendered him by Kings of Siam. — Jan. 26, 1878.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Rear Admiral William Reynolds, of the United States Navy, be, and is hereby, authorized to accept, from His Majesty, the King of Siam, a Chenam box, an enameled vase, and silver medal, not intended to be worn, as tendered to him by the King on the occasion of the visit of the flagship Tennessee to Bangkok during the present year; also, an enameled vase from a younger brother of the King, and a similar vase from the second King, on the same occasion.

Rear-Admiral Reynolds may accept present.

Approved, January 26, 1878.

[No. 12.] Joint resolution appropriating two hundred dollars, to defray expenses of transferring the remains of Pancoast Loose, a deceased soldier. — March 4, 1878.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury, be and he is hereby authorized and directed to pay out of any moneys in the Treasury not otherwise appropriated, upon the requisition and under the direction of the Secretary of War, the sum of two hundred dollars, or so much thereof as may be necessary, for the purpose of defraying the expenses of transferring the remains of Pancoast Loose, alias Harry Trevor; who was a soldier in Company "L" Second Regiment of Cavalry, United States Army, and who lately died from injuries received in battle with hostile Indians from Virginia City, Montana, where said remains are interred, to the home of his parents in Schuylkill County, Pennsylvania.

Pancoast Loose, alias Harry Trevor transportation of remains of.

Approved, March 4, 1878.

[No. 21.] Joint resolution authorizing Lieutenant T. B. M. Mason, United States Navy, to accept a medal conferred by the King of Italy for extinguishing a fire on a powder-ship. — May 16, 1878.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Lieutenant Theodorus B. M. Mason, of the United States Navy, be, and is hereby, authorized to accept a silver medal, tendered him by the King of Italy, in appreciation of services rendered by him to the Italian bark Delaide, in rescuing said vessel from fire in the harbor of Callao, Peru, June twenty-fifth, eighteen hundred and seventy-four.

T. B. M. Mason may accept medal.

Approved, May 16, 1878.

law, said decision having been acquiesced in and said rate thereafter adopted by the Treasury Department.

Approved, January 15, 1881.

CHAP. 22.—An act for the relief of John Gault, junior, late a major of the Twenty-eighth Regiment of Kentucky Volunteer Infantry. Jan. 15, 1881.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay John Gault, junior, late a major in the Twenty-eighth Regiment Kentucky Infantry Volunteers, out of any moneys in the Treasury not otherwise appropriated, the pay and allowances of a major of infantry from August sixteenth, eighteen hundred and sixty-two, to April fifteenth, eighteen hundred and sixty-three, deducting therefrom any moneys paid him for any other position held during that period. John Gault, junior, relief.

Approved, January 15, 1881.

CHAP. 26.—An act for the relief of James D. Grant. Jan. 21, 1881.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Internal Revenue be, and he is hereby, authorized and directed to release James D. Grant, a distiller, of Robertson County, in the State of Texas, from the payment of one thousand four hundred and ninety-three dollars and forty-six cents, which remain unremitted of the two following assessments made against him for deficiencies in the production of distilled spirits, occurring in the months of September, October, November, and December, eighteen hundred and seventy-six, and January and February eighteen hundred and seventy-seven, at his distillery, number one of the first district of Texas, namely: An assessment for one thousand three hundred and forty dollars and five cents on the list for February, eighteen hundred and seventy-seven, and another for five hundred and twenty-eight dollars and sixteen cents on the list of May, eighteen hundred and seventy-seven: *Provided*, That before the Commissioner of Internal Revenue shall release the said Grant from the payment of said assessment, or any part thereof, he shall ascertain by inquiry and investigation into all the facts that said Grant correctly reported and paid taxes upon all spirits made by him during the time for which said assessments were made. James D. Grant, relief. *Proviso.*

Approved, January 21, 1881.

CHAP. 32.—An act authorizing the persons therein named to accept of certain decorations and presents therein named, from foreign governments, and for other purposes. Jan. 31, 1881.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Joseph Irish, of the United States Revenue Marine, be, and he is hereby, authorized to accept from the Spanish Government the Grand Cross of Naval Merit of the second class, for services rendered the officers and crew of the Spanish war-vessel Pizarro; Presents may be accepted by Joseph Irish;

That Lieutenant Benjamin H. Buckingham, of the United States Navy, be, and he is hereby, authorized to accept from the President of the French Republic the Cross of the Legion of Honor, in appreciation of services in connection with the Exposition of eighteen hundred and seventy-eight at Paris; Lieutenant Benjamin H. Buckingham;

General Francis A. Walker;

That General Francis A. Walker, Superintendent of the Census, be, and he is hereby, authorized to accept a decoration of Knight Commander of the Swedish order of Wasa, tendered him by the Government of Sweden, and also that of Commander of the Spanish order of Isabella, from the Government of Spain, as a recognition of his services as chief of the bureau of awards at the Centennial Exhibition at Philadelphia;

First Lieutenant Henry Metcalfe;

That First Lieutenant Henry Metcalfe, of the Ordnance Department of the United States Army, be, and he is hereby, authorized to accept from the Sultan of Turkey a decoration of the order of the Osmanie, tendered as an evidence of the Sultan's appreciation of the efforts of that officer in conducting the inspection of arms and ammunition manufactured for the Imperial Ottoman Government at Providence, Rhode Island, and Bridgeport and New Haven, Connecticut;

Rear-Admiral John J. Almy;

That Rear-Admiral John J. Almy, United States Navy, be, and he is hereby, authorized to accept a decoration of the order of Kemehameha the First, which has been tendered to him by the King of the Hawaiian Islands as an evidence of his appreciation of that officer;

Lieutenant Z. L. Tanner;

That Lieutenant Z. L. Tanner, of the United States Navy, late commanding the Pacific mail steamer City of Pekin, be, and he is hereby, authorized to accept from the Japanese Government a pair of flower-vases and a lacquered box in acknowledgment of his services in rescuing four Japanese seamen from a wreck on the Pacific Ocean on the nineteenth of January, eighteen hundred and seventy-seven;

Lieutenant Francis V. Greene;

That Lieutenant Francis V. Greene, of the United States Army, be, and he is hereby, authorized to accept from the Emperor of Russia a decoration of the third class of the order of Saint Anne for bravery under fire at the battle of Shipka Pass August twenty-third and twenty-fourth, eighteen hundred and seventy-seven, and at the assault of Plevna September eleventh, eighteen hundred and seventy-seven; also, a decoration of the fourth class of the order of Saint Vladimir for bravery under fire during the passage of the Balkans December twenty-fifth to thirty-first, eighteen hundred and seventy-seven, and at the battle of Philippopolis January fifteenth to seventeenth, eighteen hundred and seventy-eight; also, the campaign medal conferred upon all persons present in the campaign;

Assistant Surgeon William J. Wilson;

That William J. Wilson, assistant surgeon United States Army, be, and he is hereby, authorized to accept from the Khedive of Egypt a decoration of the order of Nejidieh, for gallantry in battle in the action near Gura, in Abyssinia, March seventh, eighteen hundred and seventy-six;

Commodore J. W. A. Nicholson.

That Commodore J. W. A. Nicholson, United States Navy, be, and he is hereby, authorized to accept from the Spanish Government the Grand Cross of Naval Merit, with a white badge, as a mark of appreciation of the services rendered to the officers and crew of the wrecked war-ship Pizarro.

Conditions of acceptance.

SEC. 2. That no decoration, or other thing, the acceptance of which is authorized by this act, and no decoration heretofore accepted, or which may hereafter be accepted, by consent of Congress, by any officer of the United States, from any foreign government, shall be publicly shown or exposed upon the person of the officer so receiving the same.

Presents, hereafter made, tendered through Department of State and permission for acceptance and delivery obtained from Congress.

SEC. 3. That hereafter any present, decoration, or other thing, which shall be conferred or presented by any foreign government to any officer of the United States, civil, naval, or military, shall be tendered through the Department of State, and not to the individual in person, but such present, decoration, or other thing shall not be delivered by the Department of State unless so authorized by act of Congress.

Approved, January 31, 1881.

[No. 39.] Joint Resolution To authorize Benjamin Harrison to accept certain medals presented to him while President of the United States. April 2, 1896.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Benjamin Harrison be, and he is hereby, authorized to accept certain medals presented to him by the Governments of Brazil and Spain during the term of his service as President of the United States.

Benjamin Harrison. Acceptance of medals from Brazil and Spain authorized.

Approved, April 2, 1896.

[No. 54.] Joint Resolution For the relief of ex-Naval Cadet Henry T. Baker. May 18, 1896.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy be, and he is hereby, authorized to reappoint Henry T. Baker as a naval cadet to fill the vacancy in the engineers' division of his class caused by his resignation of March seventh, eighteen hundred and ninety-six, with the same standing, rights and privileges in all respects as if such resignation had not been tendered: *Provided*, That he shall not receive pay while out of the service.

Henry T. Baker. May be reappointed naval cadet.

Proviso. No pay while out of service.

Approved, May 18, 1896.

[No. 61.] Joint Resolution For the relief of James P. Veach. June 10, 1896.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he hereby is, empowered, authorized, and directed to cause record to be made in the military history of James P. Veach, a private of Company I of the One hundred and nineteenth (Seventh Cavalry) Regiment of Indiana Volunteers, in the service of the United States, that the said James P. Veach, having received from the President of the United States a full and unconditional pardon of all military offenses for which he was tried and convicted by court-martial, and sentence of which court was promulgated January eighth, eighteen hundred and sixty-six, in General Orders, Numbered Six, Department of Texas, is thereby absolved from said offenses and from all the penalties of such offense and sentence, and is therefore entitled to an honorable discharge; and thereupon to discharge said Veach as of the date October eighth, eighteen hundred and sixty-five.

James P. Veach. Granted honorable discharge.

Approved, June 10, 1896.

Securities payable in foreign moneys. *Ante*, pp. 505, 510. *Post*, p. 1311.

SEC. 3. That notwithstanding the provisions of the Second Liberty Bond Act, as amended by the Third Liberty Bond Act, or of the War Finance Corporation Act, bonds and certificates of indebtedness of the United States payable in any foreign money or foreign moneys, and bonds of the War Finance Corporation payable in any foreign money or foreign moneys exclusively or in the alternative, shall, if and to the extent expressed in such bonds at the time of their issue, with the approval of the Secretary of the Treasury, while beneficially owned by a nonresident alien individual, or by a foreign corporation, partnership, or association, not engaged in business in the United States, be exempt both as to principal and interest from any and all taxation now or hereafter imposed by the United States, any State, or any of the possessions of the United States, or by any local taxing authority.

Exempted from taxation when held by nonresident aliens, etc.

Depositary banks, etc. *Ante*, p. 504.

SEC. 4. That any incorporated bank or trust company designated as a depositary by the Secretary of the Treasury under the authority conferred by section eight of the Second Liberty Bond Act, as amended by the Third Liberty Bond Act, which gives security for such deposits as, and to amounts, by him prescribed, may, upon and subject to such terms and conditions as the Secretary of the Treasury may prescribe, act as a fiscal agent of the United States in connection with the operations of selling and delivering any bonds, certificates of indebtedness or war savings certificates of the United States.

May act as fiscal agents to sell and deliver securities.

Title of this Act.

SEC. 5. That the short title of this Act shall be "Fourth Liberty Bond Act."

Approved, July 9, 1918.

CHAP. 143.—An Act Making appropriations for the support of the Army for the fiscal year ending June thirtieth, nineteen hundred and nineteen.

July 9, 1918. [H. R. 12281.]

[Public, No. 193.]

Army appropriations. *Post*, p. 1026.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the support of the Army for the year ending June thirtieth, nineteen hundred and nineteen:

Contingencies. *Post*, p. 1026.

CONTINGENCIES OF THE ARMY: For all contingent expenses of the Army not otherwise provided for and embracing all branches of the military service, including the office of the Chief of Staff; for all emergencies and extraordinary expenses, including the employment of translators and exclusive of all other personal services in the War Department, or any of its subordinate bureaus or offices at Washington, District of Columbia, or in the Army at large, but impossible to be anticipated or classified; to be expended on the approval and authority of the Secretary of War, and for such purposes as he may deem proper, including the payment of a per diem allowance not to exceed $4, in lieu of subsistence, to employees of the War Department traveling on official business outside of the District of Columbia and away from their designated posts, $250,000.

Emergencies.

Per diem subsistence.

Office, Chief of Staff.

OFFICE OF THE CHIEF OF STAFF.

Army War College.

ARMY WAR COLLEGE: For expenses of the Army War College, being for the purchase of the necessary stationery; typewriters and exchange of same; office, toilet, and desk furniture; textbooks, books of reference; scientific and professional papers and periodicals; printing and binding; maps; police utensils; employment of temporary, technical, or special services; and for all other absolutely necessary expenses, including $25 per month additional to regular compensation to chief clerk of division for superintendence of the War College Building, $9,000.

nevertheless be made and the medal or cross or the bar or other emblem or device presented, within three years from the date of the act justifying the award thereof, to such representative of the deceased as the President may designate; but no medal, cross, bar, or other device, hereinbefore authorized, shall be awarded or presented to any individual whose entire service subsequently to the time he distinguished himself shall not have been honorable; but in cases of officers and enlisted men now in the Army for whom the award of the medal of honor has been recommended in full compliance with then existing regulations but on account of services which, though insufficient fully to justify the award of the medal of honor, appear to have been such as to justify the award of the distinguished-service cross or distinguished-service medal hereinbefore provided for, such cases may be considered and acted upon under the provisions of this Act authorizing the award of the distinguished-service cross and distinguished-service medal, notwithstanding that said services may have been rendered more than three years before said cases shall have been considered as authorized by this Act, but all consideration of and action upon any of said cases shall be based exclusively upon official records now on file in the War Department; and in the cases of officers and enlisted men now in the Army who have been mentioned in orders, now a part of official records, for extraordinary heroism or especially meritorious services, such as to justify the award of the distinguished-service cross or the distinguished-service medal hereinbefore provided for, such cases may be considered and acted on under the provisions of this Act, notwithstanding that said act or services may have been rendered more than three years before said cases shall have been considered as authorized by this Act, but all consideration of and action upon any said cases shall be based exclusively upon official records of the War Department.

Subsequent entirely honorable service required.

Awards to persons now in service, which have been recommended.

Official records of Department to govern.

Citations in orders for heroism included.

Commanding general in the field may award medal, etc.

That the President be, and he is hereby, authorized to delegate, under such conditions, regulations, and limitations as he shall prescribe, to the commanding general of a separate army or higher unit in the field, the power conferred upon him by this Act to award the medal of honor, the distinguished-service cross, and the distinguished-service medal; and he is further authorized to make from time to time any and all rules, regulations, and orders which he shall deem necessary to carry into effect the provisions of this Act and to execute the full purpose and intention thereof.

Citizens receiving decorations in allied service may wear them in Federal service.

That American citizens who have received, since August first, nineteen hundred and fourteen, decorations or medals for distinguished service in the armies or in connection with the field service of those nations engaged in war against the Imperial German Government, shall, on entering the military service of the United States, be permitted to wear such medals or decorations.

Acceptance of decorations from allied nations permitted.

That any and all members of the military forces of the United States serving in the present war be, and they are hereby, permitted and authorized to accept during the present war or within one year thereafter, from the Government of any of the countries engaged in war with any country with which the United States is or shall be concurrently likewise engaged in war, such decorations, when tendered, as are conferred by such Government upon the members of its own military forces; and the consent of Congress required therefor by clause eight of section nine of Article I of the Constitution is hereby expressly granted: *Provided*, That any officer or enlisted man of the military forces of the United States is hereby authorized to accept and wear any medal or decoration heretofore bestowed by the Government of any of the nations concurrently engaged with the United States in the present war.

Constitutional consent of Congress granted hereby.

Proviso.
Previous decorations by allied governments included.

Decorations may be conferred on members of allied forces.

That the President is authorized, under regulations to be prescribed by him, to confer such medals and decorations as may be

[CHAPTER 850.]

JOINT RESOLUTION

June 27, 1934.
[H.J. Res. 330.]
[Pub. Res. No. 52.]

Authorizing certain retired officers or employees of the United States to accept such decorations, orders, medals, or presents as have been tendered them by foreign Governments.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following-named retired officers or employees of the United States are hereby authorized to accept such decorations, orders, medals, or presents as have been tendered them by foreign Governments:

Decorations tendered by foreign governments.
Designated officers and employees may accept.

State Department.

State Department: Robert Woods Bliss, Fred D. Fisher, George Horton, William H. Hunt, Frank W. Mahin, Thomas Sammons, Harry Tuck Sherman, Alexander Thackara, and Craig W. Wadsworth.

Army.

United States Army: Charles J. Allen, Bailey K. Ashford, George G. Bartlett, Herbert C. Crosby, William Crozier, Albert C. Dalton, Hanson E. Ely, James E. Fechet, Harry E. Gilchrist, Francis W. Griffin, William W. Harts, John L. Hines, William E. Horton, John A. Hull, Girard L. McEntee, Charles P. Summerall, John J. Pershing, Trevor W. Swett, and Thomas F. Van Natta, Junior.

Navy.

United States Navy: William C. Braisted, William B. Caperton, Robert E. Coontz, Herbert O. Dunn, John Rufus Edie, Noble E. Irwin, Harry H. Lane, Norman T. McLean, William V. Pratt, Henry J. Shields, George W. Steele, Montgomery M. Taylor, and Arthur L. Willard.

Marine Corps.

United States Marine Corps: Ben H. Fuller and George C. Thorpe.

Member of Congress.

Sol Bloom, Member of Congress, Director of United States George Washington Bicentennial Commission.

Department of Agriculture.

Department of Agriculture: L. O. Howard.

Department of Commerce.

Department of Commerce: Antone Silva.

List of persons for whom State Department is holding decorations, etc., to be reported to 75th, etc., Congresses.

SEC. 2. That the Secretary of State is hereby directed to furnish to the Seventy-fifth Congress and to each alternate Congress thereafter a list of those retired officers or employees of the United States for whom the Department of State under the provisions of the Act of January 31, 1881 (U.S.C., title 5, sec. 115), is holding decorations, orders, medals, or presents tendered them by foreign governments.

Approved, June 27, 1934.

[CHAPTER 851.]

JOINT RESOLUTION

June 27, 1934.
[H.J.Res. 365.]
[Pub. Res., No. 53.]

To amend the Settlement of War Claims Act of 1928, as amended.

Settlement of War Claims Act of 1928, amendments.
Vol. 42, p. 106.

Whereas the joint resolution of the Congress of the United States, approved July 2, 1921, provides in part as follows:

"SEC. 5. All property of the Imperial German Government, or its successor or successors, and of all German nationals, which was, on April 6, 1917, in or has since that date come into the possession or under control of, or has been the subject of a demand by the United States of America or of any of its officers, agents, or employees, from any source or by any agency whatsoever, * * * shall be retained by the United States of America and no disposition thereof made, except as shall have been heretofore or specifically hereafter shall be provided by law until such time as the Imperial German Government * * * shall have * * * made suitable provision for the satisfaction of all claims against said [Government] * * *, of all persons, wheresoever domiciled, who owe permanent allegiance to the United States

making appropriations for the Legislative Branch of the Government for the fiscal year ending June 30, 1933, and for other purposes", is hereby amended to read as follows:

Placement of orders.

"SEC. 7. (a) Any executive department or independent establishment of the Government, or any bureau or office thereof, if funds are available therefor and if it is determined by the head of such executive department, establishment, bureau, or office to be in the interest of the Government so to do, may place orders with any other such department, establishment, bureau, or office for materials, supplies, equipment, work, or services, of any kind that such requisitioned Federal agency may be in a position to supply or equipped to render, and shall pay promptly by check to such Federal agency as may be requisitioned, upon its written request, either in advance or upon the furnishing or performance thereof, all or part of the estimated or actual cost thereof as determined by such department, establishment, bureau, or office as may be requisitioned; but proper adjustments on the basis of the actual cost of the materials, supplies, or equipment furnished, or work or services performed, paid for in advance, shall be made as may be agreed upon by the departments, establishments, bureaus, or offices concerned: *Provided*, That the War Department, Navy Department, Treasury Department, Civil Aeronautics Administration, and the Maritime Commission may place orders, as provided herein, for materials, supplies, equipment, work, or services, of any kind that any requisitioned Federal agency may be in a position to supply, or to render or to obtain by contract: *Provided further*, That if such work or services can be as conveniently or more cheaply performed by private agencies such work shall be let by competitive bids to such private agencies. Bills rendered, or requests for advance payments made, pursuant to any such order, shall not be subject to audit or certification in advance of payment."

Payment.

Adjustments.

Provisos.
Procurement by contract, etc., for designated agencies.

Work by private agencies.

Approved, July 20, 1942.

[CHAPTER 508]

AN ACT

July 20, 1942
[S. 2404]
[Public Law 671]

To authorize officers and enlisted men of the armed forces of the United States to accept decorations, orders, medals, and emblems tendered them by governments of cobelligerent nations or other American republics and to create the decorations to be known as the "Legion of Merit", and the "Medal for Merit".

Members of armed forces.
Acceptance of decorations from certain foreign governments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That officers and enlisted men of the armed forces of the United States be, and they are hereby, authorized during the present war and for a year thereafter to accept from the governments of cobelligerent nations or the other American republics such decorations, orders, medals, and emblems, as may be tendered them, and which are conferred by such governments upon members of their own military forces, hereby expressly granting the consent of Congress required for this purpose by clause 8 of section 9, article I, of the Constitution: *Provided*, That any such officer or enlisted man is hereby authorized to accept and wear any decoration, order, medal, or emblem heretofore bestowed upon such person by the government of a cobelligerent nation or of an American republic.

Proviso.
Decorations previously bestowed.

"Legion of Merit."
Creation of decoration.

SEC. 2. (1) That there is hereby created a decoration to be known as the "Legion of Merit", which shall have suitable appurtenances and devices and not more than four degrees, and which the President, under such rules and regulations as he shall prescribe, may award to (a) personnel of the armed forces of the United States and of the Government of the Philippines and (b) personnel of the armed

Private Law 403 CHAPTER 647

AN ACT

October 30, 1951
[H. R. 3003]

To authorize Rear Admiral Emory D. Stanley, United States Navy, retired, to accept employment with the Government of Peru.

Rear Adm. Emory D. Stanley.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby grants its consent to Rear Admiral Emory D. Stanley, Supply Corps, United States Navy, retired, to accept, subject to the approval of the Secretary of the Navy, civil employment with, and compensation therefor from, the Government of the Republic of Peru. Acceptance of this employment and compensation therefor shall not affect the status of Rear Admiral Stanley on the retired list of the Navy or his entitlement to retired pay and other benefits arising therefrom.

Approved October 30, 1951.

Private Law 404 CHAPTER 648

AN ACT

October 30, 1951
[H. R. 4035]

For the relief of Donald I. Hamrock, Robert N. Lensch, Russell E. Ryan, and Helen P. Stewart.

Donald I. Hamrock and others.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $763.11 to Donald I. Hamrock; the sum of $1,173.50 to Robert N. Lensch; the sum of $511.21 to Russell E. Ryan; and the sum of $69.66 to Helen P. Stewart, all of Dayton, Ohio, in full settlement of all claims against the United States for accrued annual leave which has not been paid while employed at the Wright-Patterson Air Force Base as recreational employees of the Air Force during the years 1945, 1946, 1947, and 1948: *Provided*, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Approved October 30, 1951.

Private Law 405 CHAPTER 649

AN ACT

October 30, 1951
[H. R. 4181]

For the relief of Leroy Peebles.

Leroy Peebles.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Leroy Peebles, of Kinloch, Saint Louis County, Missouri, the sum of $500, in full settlement of all claims against the United States as compensation for his erroneous arrest and confinement, upon the order of the United States marshal for the District Court of the United States for the Western Division of the Northern District of Alabama, in Saint

Provided, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Approved August 27, 1958.

Private Law 85-702

AN ACT

For the relief of Kazuko Young.

August 27, 1958
[S. 2955]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of paragraph (23) of section 212 (a) of the Immigration and Nationality Act, Kazuko Young may be issued a visa and be admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of such Act: *Provided*, That this Act shall apply only to grounds for exclusion under such paragraph known to the Secretary of State or the Attorney General prior to the date of the enactment of this Act.

Kazuko Young.
66 Stat. 182.
8 USC 1182.

Approved August 27, 1958.

Private Law 85-703

AN ACT

For the relief of Joanna Strutynska.

August 27, 1958
[S. 3004]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Joanna Strutynska shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee: *Provided*, That no natural parent of Joanna Strutynska, by virtue of such relationship, shall be accorded any right, status, or privilege under the Immigration and Nationality Act.

Joanna Strutynska.
66 Stat. 163.
8 USC 1101 note.

Approved August 27, 1958.

Private Law 85-704

AN ACT

To authorize certain retired personnel of the United States Government to accept and wear decorations, presents, and other things tendered them by certain foreign countries.

August 27, 1958
[S. 3195]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following-named retired personnel of the Government of the United States are hereby authorized to accept and wear such decorations, orders, medals, emblems, presents, and other things as have been tendered as of the date of approval of this Act by the foreign government or foreign governments immediately following their names, and that the consent of Congress is hereby expressly granted for this purpose as required under clause 8 of section 9, article I, of the Constitution of the United

Medals and decorations. Authority of certain persons to accept and wear.

USC prec. Title 1.

MEMBERS OF CONGRESS

Name	Date of retirement	Donor government	Award	Remarks
Brewster, Ralph Owen	Dec. 31, 1952	Philippines	Military Merit Medal	For service to the Philippines.
Johnson, Edwin C	Jan. 2, 1955	Italy	Star of Italian Solidarity, Second Class.	For service to Italy.
Richards, James P	Jan. 2, 1957	Spain	Grand Cross Isabella la Catolica.	Token of good will.
		Greece	Cross of Commander of the Royal Order of George I.	Token of good will.

WHITE HOUSE

Crim, Howell G	Dec. 31, 1957	Belgium	Regent's Medal First Class.	Token of good will.

UNITED NATIONS

Austin, Warren R	Jan. 22, 1953	Cuba	National Order of Merit, Carlos Manuel de Cespedes.	Token of good will.
		Dominican Republic.	National Order of Merit, Juan Pablo Duarte.	Token of good will.

DEPARTMENT OF AGRICULTURE

Bishopp, Fred C	June 30, 1953	Great Britain	King's Medal for Service in the Cause of Freedom.	For perfecting DDT, an insecticide.
Gray, Roy B	May 31, 1954	France	Order of Officer du Merite Agricole.	For advisory service to Dr. Oleg Yadoff in connection with dust insecticides and fungicides.
Kotok, Edward I	May 31, 1951	France	Croix du Chevalier de la Merite Agricole.	In recognition for forestry work and for interest in international forestry.
McDonald, Murl	Aug. 31, 1953	Lebanon	Medal of Merit	In recognition for pioneer program in Lebanon of tests and demonstrations in forage crops to increase the supply of food for livestock.
Potter, Charles E	Aug. 31, 1951	Latvia	Order of Three Stars, Officer's Cross.	In appreciation for valuable service rendered in fostering friendly relations between Latvia and the United States, particularly in the field of 4-H Club work.
Warren, Gertrude L	Dec. 19, 1952	Latvia	Order of Three Stars	In appreciation for valuable service rendered in fostering friendly relations between Latvia and the United States, particularly in the field of 4-H Club work.
Watts, Lyle F	June 30, 1952	France	Croix du Chevalier de la Merite Agricole.	In recognition for forestry work and for interest in international forestry.
Wilson, Dr. Milburn L	June 30, 1953	France	Officer of the Merite Agricole.	Honored for his contributions to agriculture.

CANAL ZONE GOVERNMENT

Dowd, Dr. Frederick F	July 31, 1949	Republic of Panama.	Order of Vasco Nunez de Balboa.	Fostering cordial relations between Panama and the United States.
Lombard, Eugene C	Mar. 31, 1956	Republic of Panama.	Order of Vasco Nunez de Balboa.	Fostering cordial relations between Panama and the United States.
Paul, Seymour	Mar. 31, 1950	Republic of Panama.	Order of Vasco Nunez de Balboa.	Fostering cordial relations between Panama and the United States.

CIVIL AERONAUTICS BOARD

Chamberlain, John M	Jan. 2, 1958	Italy	Order of Merit	In recognition of the assistance rendered to Registro Aeronautica Italiano in developing airworthiness regulations.

DEPARTMENT OF COMMERCE

Name	Date of retirement	Donor government	Award	Remarks
Dunlap, William A.	Dec. 31, 1952	Dominican Republic.	Order of Merit "Juan Pablo Duarte."	In appreciation of services rendered to President Trujillo during his visit to Jacksonville.
Hote, J. F.	July 1, 1949	France	Chevalier de l'Ordre du Merite Maritime.	Token of good will for services rendered in connection with maritime activities.
Morse, Huntington T.	June 30, 1954	France	Legion of Honor, Degree of Officer.	Token of good will for services rendered in connection with maritime activities.
		Netherlands	Commander in the Order of Orange Nassau.	Token of good will for services rendered in connection with maritime activities.
		Norway	Knights Cross, First Class, of the Royal Order of Saint Olav.	Token of good will for services rendered in connection with maritime activities.
Mulroy, Thomas B.	Dec. 31, 1956	France	Chevalier in the French National Order of the Legion of Honor.	Token of good will for services rendered in connection with maritime activities.

GOVERNMENT PRINTING OFFICE

Name	Date of retirement	Donor government	Award	Remarks
Nikula, August	June 30, 1951	Finland	Order of the White Rose of Finland, Knight.	Token of acknowledgment for his endeavors to alleviate the sufferings caused by Communist aggression among the civilian population of Finland.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Name	Date of retirement	Donor government	Award	Remarks
Coffey, Erval R.	July 1, 1954	Thailand	The Most Noble Order of the Crown of Thailand.	In recognition of his services as Chief, Public Health Division, United States Mission to Thailand.
Forbes, Mary D.	Aug. 1, 1954	Greece	The Golden Cross of the Royal Order of the Phoenix.	In recognition of her services as Director of the Nursing Section, American Mission for Aid to Greece.
Murdock, John R.	Aug. 1, 1956	Dominican Republic.	The Order of Merit Juan Pablo Duarte in the Grade of Commendador.	In recognition of his services as Assistant Director of the Pan American Sanitary Bureau and the organization of the Division of Malaria of the Health Ministry of the Dominican Republic.
Warner, Estella F.	Jan. 1, 1956	Lebanon	The Order of the Cedars les Chevaliers.	In recognition of her services rendered to that country as Regional Public Health Representative under the Point IV program in the Middle East.

DEPARTMENT OF INTERIOR

Name	Date of retirement	Donor government	Award	Remarks
Demaray, Arthur E.	Dec. 8, 1951	Sweden	Order of the Knight of Vasa.	For services in connection with visit of the Crown Prince and Princess of Sweden to the United States in 1926.

INTERNATIONAL COOPERATION ADMINISTRATION

Name	Date of retirement	Donor government	Award	Remarks
Schenck, Hubert G.	Mar. 1, 1954	China	Decoration of Ching Hsing (Auspicious Star).	Reason for award unknown.
Meyer, Clarence E.	July 1, 1957	Austria	Great Gold Medal of Honor.	Reason for award unknown.

DEPARTMENT OF JUSTICE

Name	Date of retirement	Donor government	Award	Remarks
Goss, Paul H.	Dec. 31, 1954	Mexico	Gold Watch	Reason for award unknown.
Newport, Roy B.	Oct. 31, 1956	Mexico	Gold Watch	Reason for award unknown.
Nichols, Louis B.	Nov. 20, 1957	Greece	Cross of Taxiarch or Our Order of the Phoenix.	Reason for award unknown.
Starr, George J.	Jan. 6, 1947	France	Medal of Honor of the Municipal and Rural Police of the Ministry of the Interior of the Republic of France.	Reason for award unknown.
Watkins, W. Frank	Mar. 31, 1949	Norway	Knight's Cross, First Class, Royal Order of Saint Olav.	Reason for award unknown.
Wells, Richard H.	Sept. 30, 1951	Mexico	Gold Watch	Reason for award unknown.

NATIONAL LABOR RELATIONS BOARD

Name	Date of retirement	Donor government	Award	Remarks
Murdock, Abe	Dec. 16, 1957	Philippines	Military Merit Medal	Reason for award unknown.

SMITHSONIAN INSTITUTION

Zetek, James	May 31, 1956	Republic of Panama.	Vasco Nunez de Balboa	For outstanding work in the entomological and general biological fields and for his contribution to international relations.

DEPARTMENT OF STATE

The awards tendered to personnel of the Department of State were given as tokens of good will by the donor governments.

Armour, Norman	Dec. 31, 1945	Haiti	Order of Honor and Merit, Grand Cross.	
Atherton, Ray	Aug. 31, 1948	China	Order of the Golden Grain	
Bell, George L	Aug. 1, 1953	France	Legion of Honor, Officer	
Blake, Maxwell	Jan. 31, 1941	Italy	"Ordini della Corona d'Italia," Grand Officer.	
Bosl, Pierre de L	July 31, 1947	Great Britain	Silver Jubilee Medal	
		Serbs, Croats and Slovenes, now Yugoslavia.	Order of St. Sava, Third Class.	
		Peru	Order of the Sun Commander.	
		Peru	Gold Medal Commemorative of 1st Centenary of Battle of Ayachucho.	
		Italy	Order of the Crown	
Bowers, Claude G	Oct. 1, 1953	Chile	Grand Cross Orden al Merito	
Brooks, C. C	Oct. 31, 1954	Peru	Peruvian Centennial Independence.	
Caffery, Jefferson	Feb. 28, 1955	Cuba	Grand Cross of National Order of Merit Carlos Manuel de Cespedes.	
		Venezuela	Third Class, Bust of Bolivar	
		Colombia	"Order of Boyaca" Grade of Grand Official.	
Caldwell, John Kenneth	Oct. 31, 1945	Czechoslovakia.	Cross of War	
Cole, Felix	Oct. 31, 1952	Poland	Order of Polonia Stituta	
		Latvia	Order of Three Stars, Third Grade.	
Corcoran, William W	Nov. 30, 1947	France	Medaille de Sauvetage	
Culbertson, Paul T	Aug. 31, 1953	Portugal	Order of Christ, Commander	
Davis, John K	Feb. 1, 1943	Great Britain	King George Jubilee Medal	
Dawson, William	Dec. 31, 1946	Ecuador	Grand Cross of the "Orden al Merito."	
Dearing, Fred Morris	June 30, 1938	Colombia	Grand Cross of the Order of Boyaca.	
		Portugal	Military Order of Christ	
de Barneville, Maurice F.	Dec. 2, 1952	France	Legion of Honor	
Donnelly, Walter J	Dec. 31, 1952	Cuba	National Order of Merit, Carlos Manuel de Cespedes, Commander.	
		Colombia	Order of Boyaca	
Frost, Arthur C	Dec. 31, 1947	Chile	Order of "Al Merito"	
Frost, Wesley	Dec. 1, 1944	Great Britain	Silver Jubilee Medal	
Fullerton, Hugh S	Dec. 31, 1948	Lithuania	Order of Vytautas the Great, Class III.	
Goold, Herbert S	Mar. 1, 1943	Finland	Commander of the White Rose, Second Class.	
Greene, Winthrop S	May 31, 1951	Chile	Order of "Al Merito", Caballero.	
Grew, Joseph C	Oct. 1, 1945	Belgium	Crown of Belgium, Grand Officer.	
		Finland	Order of the White Rose	
		Peru	Order of the Sun of Peru	
Harrison, Randolph, Jr	July 31, 1952	Italy	Order of the Crown of Italy	
Henry, Frank Anderson	Mar. 1, 1946	Chile	Order of "Al Merito"	
Henry, R. Horton	Apr. 30, 1950	Cuba	National Order of Merit, Carlos Manuel de Cespedes, Officer.	
Hester, Evett D	Sept. 30, 1950	France	Order of the Imperial Dragon of Annam, Knight.	
Hornbeck, Stanley K	May 1, 1947	Siam	Order of the White Elephant, Third Class.	
Hunt, Leigh W	May 31, 1947	Belgium	Order of the Crown, Chevalier.	
Kelly, Robert F	Apr. 1, 1945	Latvia	Order of the Three Stars	
		Latvia	Latvian Jubilee Medal	
		Poland	Officer's Cross of Order of Polonia Restituta.	

DEPARTMENT OF STATE—Continued

Name	Date of retirement	Donor government	Award	Remarks
Kemp, Edwin Carl	Jan. 31, 1947	Tunisia	Cross of the Grand Officer of Nichan Iftikhar.	
Kempter, Charles W	Apr. 30, 1957	Brazil	National Order of the Southern Cross, Degree of Officer.	
Kirk, Alexander C	Sept. 30, 1946	Belgium	Croix d'Officier de l'Ordre de la Cournne.	
Klieforth, Alfred Will	Oct. 31, 1950	Austria	Austrian Service Order	
		Latvia	Order of the Three Stars of Latvia.	
Lane, Clayton	Sept. 30, 1947	Poland	Commander's Cross of Order of Poland Restituta.	
		Poland	Officer's Cross of Order of Polonia Restituta.	
McGurk, Joseph F	Apr. 30, 1947	Bolivia	Order of the Condor of the Andes.	
Maynard, Lester	Dec. 31, 1937	Egypt	Order of the Nile	
Memminger, Lucien	Sept. 1, 1944	Italy	Silver Medal	
Merrell, George R	May 16, 1952	Ecuador	National Order "Al Merito," Commander.	
Messersmith, George S	Aug. 31, 1947	Austria	Austrian Service Order, Great Cross.	
		Belgium	Olympic Medal	
		Belgium	Order of the Crown, Commander.	
Miller, David Hunter	Jan. 31, 1944	France	Medal bearing profile of Lafayette issued on 100th Anniversary of Lafayette's death.	
Molesworth, Kathleen	Dec. 31, 1955	Cuba	National Order of Merit, Carlos Manuel de Cespedes (Officer).	
Nester, Alfred T	May 31, 1955	Tunisia	Order of Nichan Iftikar Commander.	
Norweb, R. Henry	Sept. 30, 1948	Chile	Order "Al Merito," Commander.	
Patton, Kenneth S	Dec. 31, 1945	Yugoslavia	Order of St. Sava	
Quarton, Harold B	Nov. 30, 1949	Estonia	Estonian Liberty Cross	
Quirin, Harry Arnold	Aug. 31, 1953	France	Certificate of the Legion of Honor.	
Russell, H. Earle	Sept. 30, 1950	Morocco	Order of Ouissam Alaouite, Commander.	
Saugstad, Jesse	Jan. 29, 1954	Netherlands	Commander in the Order of Orange Nassau.	
		Norway	Knights Cross, First Class, of the Royal Order of Saint Olav.	
Schoenfeld, Rudolf E	Feb. 26, 1955	Hungary	Cross of Merit Class II	
Sholes, Walter H	Feb. 28, 1947	Sweden	Commemorative Medal	
Simmons, John F	Jan. 31, 1957	France	Legion of Honor, degree of Commander.	
		Italy	Grand Officer of the Order of "Al Merito della Republica de Italia."	
		Japan	Grand Cordon of the Order of Sacred Treasure.	
		Netherlands	Order of Orange-Nassau, grade of Grand Officer.	
		Norway	Grand Cross of the Order of Saint Olav.	
		Portugal	Grand Officer of the Military Order of Christ.	
Sokobin, Samuel	Oct. 31, 1947	China	Chia Ho (Insignia of Fourth Class).	
Southard, Addison E	June 1, 1943	Ethiopia	Order of the Holy Trinity	
Tewksbury, Howard H	Apr. 1, 1952	Cuba	National Order of Merit, Carlos Manuel de Cespedes, Officer.	
Thurston, Walter C	Aug. 31, 1953	Costa Rica	Commemoration Medallion	
		Brazil	Order of the Southern Cross, Grade of Commendador.	
Vallance, William Roy	Dec. 31, 1957	Cuba	Order of Lanuza	
		Peru	Order of the Sun	
Walker, Jay	Oct. 31, 1953	Tunisia	Order of the Nichan Iftikhar, Officer.	
Waller, George Platt	Sept. 30, 1950	Luxembourg	Order of the Oak-Leaved Crown.	
Waterman, Henry S	Nov. 30, 1946	Cambodia	L'Ordre Royal de Cambodge, Commander.	
Wheeler, Leslie Allen	July 31, 1951	Ecuador	"Al Merito Agricola," Commander.	
White, John Campbell	Oct. 1, 1945	Czechoslovakia	Order of White Lion, Class IV.	
		Estonia	Estonian Liberty Cross	
Wiley, John C	Apr. 30, 1954	Peru	Order of the "Sol"	
Wilson, Edwin C	Oct. 31, 1949	France	Cross of Commander, Legion of Honor.	
		Ecuador	National Order "Al Merito," Commander.	

TARIFF COMMISSION

Name	Date of retirement	Donor government	Award	Remarks
Durand, E. Dana	June 16, 1952	Poland	Order of "Polonia Restituta," grade of Commander.	Reason for award unknown.

TREASURY DEPARTMENT

United States Coast Guard				
Jacobs, Donald G. (Captain) 1105	Aug. 1, 1951	Portugal	Gold Medal of "Courage, Abnegation, and Humanity."	The award was made for Captain Jacobs' services as Commanding Officer of the U. S. C. G. Cutter *Bibb*, during the rescue of the crew of the Portuguese schooner *Gaspar*, during a gale off the Newfoundland Banks on Sept. 18, 1948.
Lieberson, William (Lieutenant Commander) 2058	Feb. 1, 1957	Greece	Gold Naval, Medal, First Class.	For distinguished services rendered to the Merchant Marine and for the Best Organization of the Greek Maritime Services.
McCabe, George E. (Rear Admiral) 1080	Mar. 1, 1954	Korea	Order of Military Merit, Ulchi with Silver.	For service as Chief of the United States Coast Guard Advisory Group which was sent to Korea to organize and train the Korean Coast Guard, which is now the Republic of Korea Navy.
United States Secret Service				
Anheier, Harry D.	Dec. 14, 1956	Norway	St. Olav Medal	In recognition of services rendered in a supervisory capacity during assignment to the protection of Her Royal Highness the Crown Princess Martha and the Royal Family during their stay in the United States during World War II.
Barker, William R.	Feb. 28, 1954	Norway	St. Olav Medal	In recognition of services rendered in a supervisory capacity during assignment to the protection of Her Royal Highness the Crown Princess Martha and the Royal Family during their stay in the United States during World War II.
Callaghan, Thomas J.	Sept. 30, 1945	China	Order of the Cloud and Banner.	In recognition of services rendered during Madame Chiang Kai-shek's visit in the United States during 1943.
Maloney, James J.	Mar. 31, 1951	Norway	St. Olav Medal	In recognition of services rendered in a supervisory capacity during assignment to the protection of Her Royal Highness the Crown Princess Martha and the Royal Family during their stay in the United States during World War II.
		China	Order of the Cloud and Banner.	In recognition of services rendered during Madame Chiang Kai-shek's visit in the United States during 1943.
Peck, Albert L.	Mar. 31, 1944	Norway	St. Olav Medal	In recognition of services rendered in a supervisory capacity during assignment to the protection of Her Royal Highness the Crown Princess Martha and the Royal Family during their stay in the United States during World War II.
Rowland, Thomas H.	May 31, 1945	Norway	St. Olav Medal	In recognition of services rendered in a supervisory capacity during assignment to the protection of Her Royal Highness the Crown Princess Martha and the Royal Family during their stay in the United States during World War II.

TREASURY DEPARTMENT—Continued

Name	Date of retirement	Donor government	Award	Remarks
United States Secret Service—Con.				
Wilson, Frank J.	Dec. 31, 1946	Norway	St. Olav Medal	In recognition of services rendered in a supervisory capacity during assignment to the protection of Her Royal Highness the Crown Princess Martha and the Royal Family during their stay in the United States during World War II.
		China	Order of the Cloud and Banner.	In recognition of services rendered during Madame Chiang Kai-shek's visit in the United States during 1943.
Bureau of Customs				
Kirwin, Edwin B.	Aug. 1, 1949	France	Palme d'Acadamie	Reason for award unknown.

UNITED STATES INFORMATION AGENCY

Wright, Irene	Apr. 2, 1954	Cuba	National Order of Merit, Carlos Manuel de Cespedes.	Work in Cuban history.

DEPARTMENT OF THE AIR FORCE

General				
Chidlaw, Benjamin W. 23A	May 31, 1955	France	Croix de Guerre with Palm	For meritorious service.
Kenney, George C. 2A	Aug. 31, 1951	France	Aviation Badge	For meritorious service.
Spaatz, Carl A03706	June 30, 1948	Norway	Grand Cross of the Royal Order of St. Olav.	For meritorious service.
Lieutenant General				
Craig, Howard A. 17A	June 30, 1955	Dominican Republic.	Merito Aero, Primer Clase (1st Class).	For meritorious service.
		Peru	Peruvian Aviation Cross	For meritorious service.
Harper, Robert W. 53A	June 30, 1954	France	French Legion of Honor (Degree of Officer).	For meritorious service.
		Greece	Cross of Grand Commanders of the Royal Order of Phoenix.	For meritorious service.
		Greece	Royal Order of George I	For meritorious service.
		Brazil	Brazilian Aviation Badge (Pilot).	For meritorious service.
Schlatter, David M. 62A	July 31, 1957	Italy	Order of Merit, Italy	For meritorious service.
		Greece	Greek Grand Cross of the Order of the Phoenix.	For meritorious service.
Timberlake, Patrick W. 83A	Aug. 30, 1957	Greece	Grand Cross of the Royal Order of the Phoenix.	For meritorious service.
Major General				
Bertrandias, Victor E. AO267231	Feb. 28, 1955	France	Legion of Honor Degree of Officer.	For meritorious service.
Bevens, James M. 208A	Jan. 31, 1951	Chile	Honorary Pilot Wings	For meritorious service.
Born, Charles F. 365A	Oct. 31, 1955	Argentina	Pilot Wings	For meritorious service.
Boyd, Albert 424A	Oct. 31, 1957	France	Aeronautical Medal	For meritorious service.
		France	Brevet Militarire de Pilote D'Avion.	For meritorious service.
Butler, William O. AO5245	Jan. 31, 1946	Chile	Chilean Aviation Badge	For meritorious service.
Chauncey, Charles C. 14A	Oct. 31, 1951	Greece	Cross of Grand Commander of Royal Order of George I.	For meritorious service.
Doyle, John P. 274A	June 30, 1956	France	Croix de Guerre with Palm	For meritorious service.
Gates, Byron E. 186A	May 31, 1955	Greece	Cross of Commanders of the Royal Order of George I.	For meritorious service.
		Argentina	Air Force Wings	For meritorious service.
Grow, Malcolm C. 27A	Nov. 30, 1949	France	Medal of Aviation	For meritorious service.
Hale, Willis H. 19A	Oct. 31, 1952	Panama	Order of Vasco Nunez de Balboa.	For meritorious service.

DEPARTMENT OF THE AIR FORCE—Continued

Name	Date of retirement	Donor government	Award	Remarks
Major General—Con.				
Hansell, Haywood S.... AO17468	Dec. 31, 1946	Italy	Commander of the Order al Merito della Republica, Italy.	For meritorious service.
Hoag, Earl S.... 56A	Feb. 28, 1953	Turkey	Air Force Wings	For service with American Mission for aid of Turkey.
Lee, Morris J.... 556A	Dec. 31, 1955	Netherlands	Order of Orange-Nassau, Grand Officer.	For meritorious service.
McBlain, John F.... 203A	Oct. 31, 1956	Greece	Cross of Commanders of the Royal Order of George I.	For meritorious service.
McDaniel, Carl B.... 65A	Nov. 30, 1953	France	Aviation Badge	For meritorious service.
McDonald, George C.... 69A	Oct. 31, 1950	Brazil	Order of Aeronautical Merit	For meritorious service.
		Brazil	Pilot Wings	For meritorious service.
Richardson, William L.... 86A	July 31, 1954	Dominican Republic.	Decoration of the Air Merit	For meritorious service.
Stowell, James S.... 72A	May 31, 1955	Liberia	Star of Africa (Rank of Knight Commander).	For meritorious service.
		Greece	Royal Order of George I	For meritorious service.
		Greece	Cross of Grand Commanders of the Royal Order of Phoenix.	For meritorious service.
Thomas, Charles E., Jr.... 192A	Jan. 31, 1955	China	Pao-Ting with Banner	For meritorious service.
		China	Air Force Wings	For meritorious service.
Wade, Leigh.... AO403535	Nov. 30, 1955	Greece	Royal Order of George I	For meritorious service.
Walsh, Robert L.... 43A	Feb. 28, 1953	Mexico	Military Medal for Merit, First Class.	For meritorious service.
		Peru	Aviation Cross	For meritorious service.
		Uruguay	Honorary Pilot Wings	For meritorious service.
		Venezuela	Air Force Cross, First Class	For meritorious service.
Webster, Robert M.... 21A	Oct. 31, 1954	France	Croix de Guerre with Palm	For meritorious service.
Brigadier General				
Beam, Rosenham.... 104A	June 30, 1951	Chile	Military Medal, Second Class.	For service as Commander Caribbean Air Command.
		Panama	Order of Vasco Nunez de Balboa.	For service as Commander Caribbean Air Command.
Caldwell, Charles H.... 256A	Feb. 28, 1951	Greece	Cross of Commander of the Royal Order of George I.	For meritorious service.
		Argentina	Order of Liberation of San Martin, Grade of Grand Officer.	For service as Military Attaché to Argentina.
Grover, Orrin L.... 329A	Aug. 30, 1957	Iraq	Gold Medal, Iraq	For meritorious service.
Keeney, Douglas.... AO114138	Sept. 30, 1955	Peru	Aviation Cross	For meritorious service.
Kiel, Emil C.... 154A	July 31, 1953	Colombia	Honorary Pilot Certificate	For meritorious service.
		Ecuador	Abdon Calderon, First Class	For meritorious service.
		Chile	Military Medal, Second Class.	For meritorious service.
		Colombia	Order of Boyaca	For meritorious service.
		Peru	Aviation Cross	For meritorious service.
		Paraguay	Honorary Pilot Wings	For meritorious service.
		Greece	Cross of Commanders of the Royal Order of George I.	For meritorious service.
Knapp, Robert D.... 150A	Sept. 30, 1953	France	Croix de Guerre with Palm	For meritorious service.
Mara, Cornelius J.... AO223516	Apr. 30, 1953	Guatemala	Military Merit, 2d Class	For meritorious service.
Moore, Aubrey L.... 402A	Mar. 31, 1953	Greece	Cross of Commanders of the Royal Order of George I.	For meritorious service.
Rives, Tom C.... AO6526	June 30, 1949	Finland	Cross of Liberty with Sword, Class IV.	For meritorious service.
Rose, Franklin.... AO166159	July 31, 1956	Italy	Order of Al Merito della Republica Italiana.	For meritorious service.
Sorensen, Edgar P.... AO6354	Aug. 31, 1948	Mexico	Order of Military Merit, 1st Class.	For meritorious service.
Woodbury, Murray C.... 415A	Jan. 31, 1954	Panama	Order of Vasco Nunez de Balboa (Cohendador).	For meritorious service.
Colonel				
Ames, Richard A.... 1797A	Apr. 30, 1957	France	Croix de Guerre with Palm	For meritorious service.
Baily, William.... 808A	June 30, 1955	France	Medal for Physical Education and Sports.	For meritorious service.
Baisley, Herbert K.... 705A	Sept. 30, 1954	Ecuador	Abdon Calderon	For meritorious service.
Balchen, Bernt.... 23100A	Oct. 31, 1956	Sweden	Royal Order of the Sword, Knight Commander.	For meritorious service.
Brause, Jacob L.... AO176623	July 31, 1954	Italy	Star of Solidarity, Third Class.	For meritorious service.
Brownfield, Ralph O.... 399A	Mar. 31, 1957	Iceland	Icelandic Order of the Falcon, Commander North Star.	For meritorious service.
Bundy, John H.... 484A	Feb. 28, 1954	France	Aviation Badge	For meritorious service.

DEPARTMENT OF THE AIR FORCE—Continued

Name	Date of retirement	Donor government	Award	Remarks
Colonel—Continued				
Covington, William E., Jr. 1237A	May 31, 1957	Syria	Medal of Merit with Palm	For meritorious service.
		France	Croix de Guerre with Palm	For meritorious service.
Evans, Floyd E. AO138814	July 31, 1952	France	Medal of Pilot	Recognition of excellent services performed in connection with French Air Force.
Hall, Melvin A. AO507671	Apr. 27, 1945	France	Legion of Honor degree of Knight Commander.	For meritorious service.
Hankins, Milton T. 254A	Oct. 31, 1955	Belgium	Croix Militaire lere Classe	For meritorious service.
Hansen, George W. 401A	Aug. 31, 1951	Thailand	Coronation Medal	For meritorious service.
		Thailand	Honorary Membership in the Royal Thai Air Force.	For services as Air Attache to Thailand.
		Thailand	Most Noble Order of the Crown of Thailand, Second Class.	For services as Senior Military and Air Attache to Thailand.
Hodgson, Jack C. 193A	July 31, 1953	Italy	Order of the Crown of Italy	For meritorious service.
Jackson, Nelson P. 659A	Aug. 31, 1954	France	Croix de Guerre with Palm	For meritorious service.
Kolb, Julius A. 307A	May 31, 1951	France	Croix de Guerre with Palm	For outstanding contribution toward liberation of France during World War II.
Lingle, David G. AO11939	Dec. 31, 1947	Finland	Cross of Liberty with Sword, Class IV.	For services rendered in the interest of Finland.
Logan, Arthur L. 2303A	Jan. 31, 1957	Korea	Pilot Wings	For meritorious service.
MacReady, John A. AO234616	June 29, 1948	France	Croix de Guerre with Palm	For meritorious service.
Monahan, John W. AO10920	June 30, 1946	France	Croix de Guerre with Palm	For meritorious service.
Ofsthun, Sidney 459A	Aug. 20, 1957	Norway	Air Force Wings	For meritorious service.
Riggs, Basil L. 275A	June 30, 1956	France	Medal of Aviation	For meritorious service.
Seebach, Charles M. 116A	July 31, 1953	France	Medal of Aviation	For meritorious service.
Short, Charlie AO900636	Mar. 31, 1956	France	Legion of Honor (Chavalier).	For meritorious service.
Stinson, David R. AO11266	Oct. 31, 1948	France	Croix de Guerre with Palm	For meritorious service.
Towner, Milton M. 330A	July 31, 1957	France	Croix de Guerre with Palm	For meritorious service.
Travis, William L. 1007A	Mar. 31, 1956	Korea	Pilot Wings	For meritorious service in cooperation with the Republic of Korea Air Force.
Turner, Louie P. 352A	May 20, 1957	France	Croix de Guerre with Palm	For meritorious service.
Wilson, Joseph A. 152A	Nov. 30, 1950	Portugal	Medal of Military Merit	For meritorious service.
Lieutenant Colonel				
Baker, Edwin F. AO476458	May 31, 1957	France	Croix de Guerre with Palm	For meritorious service.
Blanchard, Frederick W. AO1703884	Oct. 31, 1955	Italy	Cross of War Merit	For meritorious service.
Carlos, Lloyd P. 5722A	Oct. 31, 1952	Greece	Royal Order of George I	For meritorious service.
Porter, George W. 2178A	Sept. 30, 1957	Greece	Gold Cross of the Royal Order of George I.	For meritorious service.
Roe, William T. AO1280067	Aug. 31, 1955	Peru	Peruvian Aviation Cross, Second Class.	For meritorious service.
Valle, Calixto C. 2376A	Jan. 31, 1957	Argentina	Aviation Badge	For meritorious service.
		Bolivia	Honorary Military Pilot wings.	For meritorious service
Major				
Drake, Fred C. AO884183	Jan. 31, 1955	Greece	Golden Cross of the Royal Battalion of Phoenix.	For meritorious service.
		Greece	Medal of Meritorious Service.	For meritorious service.
Duwe, George L. AO272655	Aug. 12, 1945	France	Croix de Guerre with Palm	For meritorious service.
Kleiderer, Eugene L. AO789920	Sept. 28, 1949	France	Croix de Guerre with Palm	For meritorious service.
McCoubrey, James A. AO419821	Aug. 31, 1949	France	Croix de Guerre with Palm	For meritorious service.
Zercher, Harold W. AO809407	Jan. 31, 1957	Paraguay	National Order of Merit	For meritorious service.
Captain				
Robison, Keith G. 16778A	Nov. 25, 1957	Greece	Officers Cross of the Royal Order of the Phoenix.	For meritorious service.
Master Sergeant				
Richardson, William S. AF6650861	Aug. 31, 1956	Greece	Military Cross of Class C	For meritorious service.
Rinn, Raymond AF6272878	Sept. 30, 1956	China	Mao Chi	For meritorious service.

DEPARTMENT OF THE ARMY

Name	Date of retirement	Donor government	Award	Remarks
Truman, Harry S., Col., General	Jan. 31, 1953	Liberia	Centennial Medal	Token of good will.
Bolte, Charles L. O6908	Apr. 30, 1955	Brazil	Order of Military Merit, grade of Grand Officer.	Reason for award unknown.
		Mexico	Military Merit, 1st Class	For his outstanding work to the Armed Forces of United States and Mexico.
Clark, Mark W. O5309	Oct. 31, 1953	Japan	Order of the Rising Sun, Grand Cordon.	Reason for award unknown.
Dahlquist, John E. O7120	Feb. 29, 1956	Mexico	Military Merit, 1st Class	For his meritorious work in strengthening the relations between the Armies of his country and Mexico.
Devers, Jacob L. O2599	Sept. 30, 1949	Argentina	Order of General San Martin, degree of Gran Oficial.	For his service in Europe during the late war and his cooperation with Latin American countries since the war.
Eichelberger, Robert L. O2624	Dec. 31, 1948	Italy	Military order of Italy, degree of Grand Officer.	In recognition of his outstanding merits in the war operations in the Pacific Theater.
Gruenther, Alfred M. O12242	Dec. 31, 1956	Greece	Grand Cross of the Royal Order of George I.	Reason for award unknown.
		Portugal	Great Cross of the Military Order of Aviz.	Reason for award unknown.
Haislip, Wade H. O3374	July 31, 1951	Brazil	Order of Military Merit, degree of Commander.	Cooperated with Brazilian personages in the United States.
		Chile	Medal of Military Merit, 1st Class.	For distinguished services rendered to the Chilean Army.
Handy, Thomas T. O4665	Mar. 31, 1954	France	Legion of Honor, grade of Grand Officer.	Reason for award unknown.
		Mexico	Military Merit, First Class.	For strengthening the bonds of friendship which exists between the United States and Mexico.
Hodges, Courtney H. O2686	Jan. 31, 1949	Argentina	Order of General San Martin, degree of Gran Oficial.	He was first high-ranking United States official to greet Argentine Minister of War on the latter's arrival in New York in April 1948.
Hull, John E. O7377	Apr. 30, 1955	Brazil	Order of Military Merit, degree of Grand Officer.	Reason for award unknown.
		Japan	Order of the Rising Sun, 1st Class.	For services rendered to Japan.
		Peru	Military Order of Ayacucho, grade of Commander.	For services rendered to Peru.
Ridgway, Matthew B. O5264	June 30, 1955	Argentina	Sword of San Martin	As a memento of his visit to Argentina in July 1949.
		Argentina	Order of General San Martin, degree of Grand Officer.	Reason for award unknown.
		Cuba	Order of Military Merit, 1st Class.	Reason for award unknown.
		Mexico	Great Cross of the National Order of the Aztec Eagle.	In recognition of his contribution to the cause of Mexican-American friendship.
		Monaco	Grand Cross of the Order of St. Carlo.	Reason for award unknown.
		Morocco	Grand Croix de l'ouissam Alaouite.	Reason for award unknown.
		Panama	Order of Vasco Nunez de Balboa, degree of Grand Officer.	Reason for award unknown.
		Portugal	Grand Cross of the Military Order of Avis.	Reason for award unknown.
Smith, Walter B. O10197	Jan. 31, 1953	Chile	Medal of Military Merit, 1st Class.	For distinguished services rendered to Chile.
		Thailand	Order of the White Elephant.	Reason for award unknown.
Van Fleet, James A. O3847	Mar. 31, 1953	Iran	Order of Yomayoon grade One.	For participation in the burial ceremonies of the late Reza Shah.
Wedemeyer, Albert C. O12484	July 31, 1951	Argentina	Order of General San Martin, degree of Gran Oficial.	As Director of Plans and Operations, GS, USA, he assisted and advised the Argentine Minister of War in matters relating to joint problems between Argentina and the United States.
		Brazil	Order of Military Merit, grade of Commander.	Reason for award unknown.
		Chile	Medal of Military Merit, 1st Class.	For distinguished services rendered to Chile.

Each such employee or former employee who has at any time made any repayment to the United States on account of any such overpayments made to him (or, in the event of his death, the person who would be entitled thereto under the first section of the Act of August 3, 1950 (5 U.S.C. 61f)), shall be entitled to have an amount equal to all such repayments made by him refunded if application is made to the project manager, Columbia Basin project, within two years after the date of enactment of this Act.

64 Stat. 395.

(b) For purposes of the Civil Service Retirement Act and the Federal Employees' Group Life Insurance Act of 1954, each overpayment for which liability is relieved by subsection (a) of this section shall be deemed to have been a valid payment.

70 Stat. 743. 5 USC 2251 note. 68 Stat. 736. 5 USC 2091 note.

SEC. 2. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States full credit shall be given for any amounts for which liability is relieved by the first section of this Act.

Approved June 29, 1966.

Private Law 89-260

July 4, 1966 [H. R. 11227]

AN ACT

To authorize the Honorable Eugene J. Keogh, of New York, a Member of the House of Representatives, to accept the award of the Order of Isabella the Catholic.

Hon. Eugene J. Keogh.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Honorable Eugene J. Keogh, of New York, a Member of the House of Representatives, is authorized to accept the award of the Order of Isabella the Catholic tendered by the Government of Spain, together with any decorations and documents evidencing this award, and the consent of Congress is hereby expressly granted for this purpose as required under section 9 of article I of the Constitution. The Secretary of State is authorized to deliver to the Honorable Eugene J. Keogh the decorations and documents evidencing such award.

1 Stat. 14. USC, prec. title 1.

Approved July 4, 1966.

Private Law 89-261

July 8, 1966 [H. R. 1240]

AN ACT

For the relief of Harry C. Engle.

Harry C. Engle.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Harry C. Engle, of Springfield, Ohio, is relieved of all liability to refund to the United States the sum of $623.56, representing an overpayment of salary for the period December 30, 1962, through June 13, 1964, due to an administrative error by the United States Air Force. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the amount for which liability is relieved by this Act.

SEC. 2. The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the said Harry C. Engle, the sum of any amounts received or withheld from him on account of the payment referred to in the first section of this Act. No part of the amount appropriated in this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall